

Laws  
of the  
State of Maryland

At the Session of the General Assembly Begun and Held in the  
City of Annapolis on the Thirteenth Day of January 2010  
and Ending on the Twelfth Day of April 2010

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VOLUME III

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**Chapter 260****(Senate Bill 245)**

AN ACT concerning

~~**School Bus Seat Belt Corrective Language Act**~~  
**Vehicle Laws – School Buses and Former School Buses – Seat Belts**

FOR the purpose of clarifying that a certain type of school vehicle used by certain schools, camps, day nurseries, or day care centers to transport children is not required to be equipped with seat belts and is not subject to certain regulations; establishing that a motor vehicle that formerly was registered as a certain type of school vehicle is not required to be equipped with seat belts and is not subject to certain regulations if it is used by certain schools, camps, day nurseries, or day care centers to transport children; and generally relating to seat belts on school buses.

BY repealing and reenacting, without amendments,  
Article – Transportation  
Section 11–154 and 11–173  
Annotated Code of Maryland  
(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
Article – Transportation  
Section 22–412.1  
Annotated Code of Maryland  
(2009 Replacement Volume and 2009 Supplement)

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

**Article – Transportation**

11–154.

(a) “School vehicle” means, except as provided in subsection (b) of this section, any motor vehicle that:

(1) Is used regularly for the exclusive transportation of children, students, or teachers for educational purposes or in connection with a school activity; and

(2) Is either:

(i) A Type I school vehicle, as defined in this subtitle; or

(ii) A Type II school vehicle, as defined in this subtitle.

(b) “School vehicle” does not include:

(1) A privately owned vehicle while it is carrying members of its owner’s household and not operated for compensation; or

(2) A vehicle that is registered as a Class M (multipurpose) vehicle under § 13–937 of this article or a Class A (passenger) vehicle under § 13–912 of this article and used to transport children between one or more schools or licensed child care centers or to and from designated areas that are approved by the Administration if:

(i) The vehicle is designed for carrying 15 persons or less, including the driver;

(ii) The children are permitted to embark or exit the vehicle only at a school or child care center or a designated area approved by the Administration;

(iii) The owner has obtained vehicle liability insurance or other security as required by Title 17 of this article; and

(iv) The vehicle is equipped with proper seat belts or safety seats so as to permit each child to be secured in a seat belt or a safety seat as required by §§ 22–412.2 and 22–412.3 of this article.

11–173.

(a) “Type I school vehicle” means a school vehicle that:

(1) Is designed and constructed to carry passengers;

(2) Is either of the body–on–chassis type construction or integral type construction; and

(3) Has a gross vehicle weight of more than 15,000 pounds and provides a minimum of 13 inches of seating space per passenger.

(b) “Type I school vehicle” does not include any bus operated by a common carrier under the jurisdiction of a State, regional, or federal regulatory agency or operated by the agency itself.

22–412.1.

Every motor vehicle that is used by nursery schools, camps, day nurseries, or day care centers for children with an intellectual disability to transport children [and that is not regulated as a “school bus” under this article,] shall be equipped with seat belts for each seat and shall be subject to any other regulations adopted by the Administration, **UNLESS THE MOTOR VEHICLE:**

- (1) IS A TYPE I SCHOOL VEHICLE; OR**
- (2) WAS FORMERLY REGISTERED AS A TYPE I SCHOOL VEHICLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 261**

**(House Bill 550)**

AN ACT concerning

~~**School Bus Seat Belt Corrective Language Act**~~  
**Vehicle Laws – School Buses and Former School Buses – Seat Belts**

FOR the purpose of clarifying that a certain type of school vehicle used by certain schools, camps, day nurseries, or day care centers to transport children is not required to be equipped with seat belts and is not subject to certain regulations; establishing that a motor vehicle that formerly was registered as a certain type of school vehicle is not required to be equipped with seat belts and is not subject to certain regulations if it is used by certain schools, camps, day nurseries, or day care centers to transport children; and generally relating to seat belts on school buses.

BY repealing and reenacting, without amendments,  
Article – Transportation  
Section 11–154 and 11–173  
Annotated Code of Maryland  
(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
Article – Transportation  
Section 22–412.1  
Annotated Code of Maryland  
(2009 Replacement Volume and 2009 Supplement)

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

**Article – Transportation**

11–154.

(a) “School vehicle” means, except as provided in subsection (b) of this section, any motor vehicle that:

(1) Is used regularly for the exclusive transportation of children, students, or teachers for educational purposes or in connection with a school activity; and

(2) Is either:

(i) A Type I school vehicle, as defined in this subtitle; or

(ii) A Type II school vehicle, as defined in this subtitle.

(b) “School vehicle” does not include:

(1) A privately owned vehicle while it is carrying members of its owner’s household and not operated for compensation; or

(2) A vehicle that is registered as a Class M (multipurpose) vehicle under § 13–937 of this article or a Class A (passenger) vehicle under § 13–912 of this article and used to transport children between one or more schools or licensed child care centers or to and from designated areas that are approved by the Administration if:

(i) The vehicle is designed for carrying 15 persons or less, including the driver;

(ii) The children are permitted to embark or exit the vehicle only at a school or child care center or a designated area approved by the Administration;

(iii) The owner has obtained vehicle liability insurance or other security as required by Title 17 of this article; and

(iv) The vehicle is equipped with proper seat belts or safety seats so as to permit each child to be secured in a seat belt or a safety seat as required by §§ 22–412.2 and 22–412.3 of this article.

11–173.

- (a) "Type I school vehicle" means a school vehicle that:
- (1) Is designed and constructed to carry passengers;
  - (2) Is either of the body-on-chassis type construction or integral type construction; and
  - (3) Has a gross vehicle weight of more than 15,000 pounds and provides a minimum of 13 inches of seating space per passenger.

(b) "Type I school vehicle" does not include any bus operated by a common carrier under the jurisdiction of a State, regional, or federal regulatory agency or operated by the agency itself.

22-412.1.

Every motor vehicle that is used by nursery schools, camps, day nurseries, or day care centers for children with an intellectual disability to transport children [and that is not regulated as a "school bus" under this article,] shall be equipped with seat belts for each seat and shall be subject to any other regulations adopted by the Administration, **UNLESS THE MOTOR VEHICLE:**

- (1) IS A TYPE I SCHOOL VEHICLE; OR**
- (2) WAS FORMERLY REGISTERED AS A TYPE I SCHOOL VEHICLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 262

**(Senate Bill 252)**

AN ACT concerning

### Child Support Guidelines – Revision

FOR the purpose of revising the schedule of basic child support obligations used to calculate the amount of a child support award under the child support guidelines; repealing provisions of law establishing that the adoption or revision of the child support guidelines may be grounds for requesting a modification of a

*child support award based on a material change in circumstances under certain circumstances; establishing that the adoption or revision of the child support guidelines is not a material change of circumstance for the purpose of a modification of a child support award;* defining certain terms; making certain clarifying and conforming changes; and generally relating to child support.

BY adding to

Article – Family Law  
Section 12–201(j) and (k)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Family Law  
Section 12–201(j) and (k), 12–202, and 12–204(e), (g), (l), and (m)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 Supplement)

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

#### Article – Family Law

12–201.

**(J) “OBLIGEE” MEANS ANY PERSON WHO IS ENTITLED TO RECEIVE CHILD SUPPORT.**

**(K) “OBLIGOR” MEANS AN INDIVIDUAL WHO IS REQUIRED TO PAY CHILD SUPPORT UNDER A COURT ORDER.**

**[(j)] (L)** “Potential income” means income attributed to a parent determined by the parent’s employment potential and probable earnings level based on, but not limited to, recent work history, occupational qualifications, prevailing job opportunities, and earnings levels in the community.

**[(k)] (M)** (1) “Shared physical custody” means that each parent keeps the child or children overnight for more than 35% of the year and that both parents contribute to the expenses of the child or children in addition to the payment of child support.

(2) Subject to paragraph (1) of this subsection, the court may base a child support award on shared physical custody:

(i) solely on the amount of visitation awarded; and

- (ii) regardless of whether joint custody has been granted.

12-202.

(a) (1) Subject to the provisions of paragraph (2) of this subsection, in any proceeding to establish or modify child support, whether pendente lite or permanent, the court shall use the child support guidelines set forth in this subtitle.

(2) (i) There is a rebuttable presumption that the amount of child support which would result from the application of the child support guidelines set forth in this subtitle is the correct amount of child support to be awarded.

(ii) The presumption may be rebutted by evidence that the application of the guidelines would be unjust or inappropriate in a particular case.

(iii) In determining whether the application of the guidelines would be unjust or inappropriate in a particular case, the court may consider:

1. the terms of any existing separation or property settlement agreement or court order, including any provisions for payment of mortgages or marital debts, payment of college education expenses, the terms of any use and possession order or right to occupy the family home under an agreement, any direct payments made for the benefit of the children required by agreement or order, or any other financial considerations set out in an existing separation or property settlement agreement or court order; and

2. the presence in the household of either parent of other children to whom that parent owes a duty of support and the expenses for whom that parent is directly contributing.

(iv) The presumption may not be rebutted solely on the basis of evidence of the presence in the household of either parent of other children to whom that parent owes a duty of support and the expenses for whom that parent is directly contributing.

(v) 1. If the court determines that the application of the guidelines would be unjust or inappropriate in a particular case, the court shall make a written finding or specific finding on the record stating the reasons for departing from the guidelines.

2. The court's finding shall state:

A. the amount of child support that would have been required under the guidelines;

B. how the order varies from the guidelines;

*C. how the finding serves the best interests of the child;*  
*and*

*D. in cases in which items of value are conveyed instead of a portion of the support presumed under the guidelines, the estimated value of the items conveyed.*

*(b) [(1) Subject to the provisions of paragraph (2) of this subsection, the] The adoption or revision of the guidelines set forth in this subtitle [may be grounds for requesting a modification of a child support award based on a material change in circumstances] IS NOT A MATERIAL CHANGE OF CIRCUMSTANCE FOR THE PURPOSE OF A MODIFICATION OF A CHILD SUPPORT AWARD.*

*[(2) The adoption or revision of the guidelines set forth in this subtitle may not be grounds for requesting a modification of a child support award based on a material change in circumstances unless the use of the guidelines would result in a change in the award of 25% or more.]*

*(c) On or before January 1, 1993, and at least every 4 years after that date, the Child Support Enforcement Administration of the Department of Human Resources shall:*

*(1) review the guidelines set forth in this subtitle to ensure that the application of the guidelines results in the determination of appropriate child support award amounts; and*

*(2) report its findings and recommendations to the General Assembly, subject to § 2-1246 of the State Government Article.*

12-204.

(e) Schedule of basic child support obligations:

Combined Adjusted Actual Income	1 Child	2 Children	3 Children	4 Children	5 Children	6 or More Children
[0-850	\$20 – \$150 Per Month, Based On Resources And Living Expenses Of Obligor And Number Of Children Due Support					
900	184	273	276	279	282	285
950	191	296	304	307	311	314
1000	198	307	332	336	340	343
1050	205	318	360	364	368	372

1100	212	329	389	393	397	401
1150	219	339	416	421	425	430
1200	226	350	438	449	454	458
1250	233	360	451	477	482	487
1300	239	371	465	504	510	515
1350	246	382	478	532	538	544
1400	253	392	491	554	566	572
1450	260	403	504	569	594	601
1500	267	413	517	584	623	629
1550	274	424	531	599	651	658
1600	282	436	546	616	672	691
1650	288	447	559	631	688	725
1700	295	457	572	645	704	753
1750	302	467	585	660	720	770
1800	308	477	598	674	735	787
1850	315	488	611	689	751	804
1900	321	498	624	703	767	821
1950	327	506	634	715	780	835
2000	332	515	645	727	793	848
2050	338	523	655	739	806	862
2100	343	531	666	751	819	876
2150	349	540	677	763	832	890
2200	354	548	687	774	845	904
2250	359	557	698	786	858	918
2300	365	565	708	798	871	931
2350	370	573	719	810	884	945
2400	376	582	729	822	897	959
2450	381	590	740	833	909	973
2500	386	598	750	845	922	987
2550	392	607	761	857	935	1000
2600	397	615	771	869	948	1014
2650	403	624	782	881	961	1028
2700	408	632	793	893	974	1042
2750	413	640	803	904	987	1056
2800	419	649	814	916	1000	1070
2850	424	657	824	928	1013	1083
2900	429	666	835	940	1026	1097
2950	435	675	846	953	1039	1112
3000	441	684	857	965	1053	1126
3050	446	693	868	978	1067	1141
3100	452	702	879	990	1080	1156
3150	458	710	890	1003	1094	1170
3200	463	719	901	1015	1108	1185
3250	469	728	912	1028	1121	1199
3300	475	737	923	1040	1135	1214
3350	480	746	934	1053	1148	1228
3400	486	755	945	1065	1162	1243

3450	491	764	957	1078	1176	1258
3500	497	773	968	1090	1189	1272
3550	503	782	979	1103	1203	1287
3600	508	790	990	1115	1216	1301
3650	514	799	1001	1128	1230	1316
3700	520	808	1012	1140	1244	1330
3750	525	817	1023	1152	1257	1345
3800	532	827	1035	1166	1273	1361
3850	538	837	1048	1181	1288	1378
3900	544	847	1060	1195	1303	1394
3950	551	857	1073	1209	1319	1411
4000	557	867	1085	1223	1334	1427
4050	563	877	1097	1236	1349	1442
4100	569	886	1109	1249	1363	1458
4150	575	895	1120	1262	1377	1473
4200	581	905	1132	1275	1391	1488
4250	587	914	1143	1288	1405	1503
4300	593	923	1155	1301	1420	1518
4350	598	932	1166	1314	1434	1534
4400	604	942	1178	1327	1448	1549
4450	610	951	1189	1340	1462	1564
4500	616	960	1201	1353	1477	1579
4550	622	970	1212	1366	1491	1594
4600	628	979	1224	1379	1505	1610
4650	634	987	1234	1391	1518	1624
4700	639	995	1244	1403	1530	1637
4750	644	1003	1254	1414	1543	1650
4800	649	1011	1264	1425	1555	1663
4850	655	1019	1274	1437	1567	1676
4900	660	1027	1284	1448	1580	1689
4950	665	1035	1294	1459	1592	1703
5000	670	1043	1304	1470	1604	1716
5050	676	1051	1314	1482	1617	1729
5100	681	1059	1324	1493	1629	1742
5150	686	1067	1334	1504	1641	1755
5200	691	1075	1344	1515	1654	1768
5250	696	1083	1354	1527	1666	1781
5300	702	1091	1364	1538	1678	1794
5350	707	1099	1374	1549	1691	1807
5400	712	1107	1384	1561	1703	1821
5450	717	1115	1394	1572	1715	1834
5500	722	1123	1404	1583	1728	1847
5550	728	1131	1414	1594	1740	1860
5600	733	1139	1424	1606	1752	1873
5650	738	1147	1434	1617	1765	1886
5700	743	1155	1444	1628	1777	1899
5750	748	1163	1454	1639	1789	1912

5800	754	1171	1464	1651	1801	1926
5850	759	1179	1474	1662	1814	1939
5900	764	1187	1484	1673	1826	1952
5950	769	1195	1494	1685	1838	1965
6000	774	1203	1504	1696	1851	1978
6050	780	1211	1513	1707	1863	1991
6100	785	1219	1523	1718	1875	2004
6150	790	1227	1533	1730	1888	2017
6200	795	1235	1543	1741	1900	2030
6250	800	1243	1553	1752	1912	2044
6300	806	1251	1563	1763	1925	2057
6350	811	1259	1573	1775	1937	2070
6400	815	1266	1582	1785	1947	2081
6450	819	1271	1589	1793	1956	2091
6500	823	1277	1597	1801	1965	2100
6550	827	1283	1604	1809	1974	2110
6600	831	1289	1611	1817	1983	2119
6650	834	1294	1618	1826	1992	2129
6700	838	1300	1626	1834	2001	2138
6750	842	1306	1633	1842	2010	2148
6800	846	1311	1640	1850	2019	2157
6850	850	1317	1647	1858	2028	2167
6900	854	1323	1654	1866	2037	2176
6950	857	1329	1662	1874	2045	2186
7000	861	1334	1669	1882	2054	2195
7050	865	1340	1676	1891	2063	2205
7100	869	1346	1683	1899	2072	2214
7150	873	1351	1691	1907	2081	2224
7200	876	1357	1698	1915	2090	2233
7250	880	1363	1705	1923	2099	2243
7300	884	1369	1712	1931	2108	2253
7350	888	1374	1720	1939	2117	2262
7400	892	1380	1727	1947	2126	2272
7450	895	1386	1734	1956	2135	2281
7500	899	1391	1741	1964	2144	2291
7550	903	1397	1748	1972	2153	2300
7600	906	1402	1755	1979	2161	2309
7650	909	1407	1761	1986	2168	2317
7700	912	1412	1768	1993	2175	2325
7750	915	1417	1774	1999	2182	2333
7800	918	1422	1780	2006	2190	2340
7850	921	1427	1786	2012	2197	2348
7900	923	1431	1792	2019	2204	2356
7950	926	1436	1798	2026	2211	2364
8000	929	1441	1804	2032	2219	2372
8050	932	1446	1810	2039	2226	2380
8100	935	1451	1817	2045	2233	2388

8150	938	1456	1823	2052	2240	2396
8200	941	1461	1829	2059	2248	2404
8250	944	1465	1835	2065	2255	2412
8300	947	1470	1841	2072	2262	2420
8350	949	1475	1847	2078	2270	2428
8400	952	1480	1853	2085	2277	2436
8450	955	1485	1860	2092	2284	2444
8500	958	1490	1866	2098	2291	2452
8550	961	1494	1872	2105	2299	2460
8600	964	1499	1878	2111	2306	2468
8650	967	1504	1884	2118	2313	2476
8700	970	1509	1890	2125	2320	2484
8750	973	1514	1896	2131	2328	2492
8800	975	1518	1901	2137	2334	2498
8850	978	1521	1906	2142	2340	2504
8900	980	1525	1910	2147	2345	2510
8950	982	1528	1915	2152	2351	2516
9000	989	1539	1928	2168	2367	2534
9050	992	1543	1933	2173	2373	2540
9100	994	1547	1938	2179	2379	2546
9150	997	1551	1943	2184	2385	2552
9200	999	1554	1948	2190	2391	2559
9250	1002	1558	1953	2195	2397	2565
9300	1004	1562	1958	2201	2403	2571
9350	1007	1566	1963	2206	2409	2578
9400	1009	1570	1967	2212	2415	2584
9450	1012	1574	1972	2217	2421	2590
9500	1014	1577	1977	2223	2427	2596
9550	1017	1581	1982	2228	2433	2603
9600	1020	1585	1987	2234	2439	2609
9650	1022	1589	1992	2239	2445	2615
9700	1025	1593	1997	2245	2451	2622
9750	1027	1597	2001	2250	2457	2628
9800	1030	1601	2006	2256	2463	2634
9850	1032	1604	2011	2261	2469	2640
9900	1035	1608	2016	2267	2475	2647
9950	1037	1612	2021	2272	2481	2653
10000	1040	1616	2026	2278	2487	2659]

**100–1200**

**\$20 – \$150 PER MONTH, BASED  
ON RESOURCES AND LIVING  
EXPENSES OF OBLIGOR AND NUMBER  
OF CHILDREN DUE SUPPORT**

<b>1250</b>	<b>162</b>	<b>163</b>	<b>165</b>	<b>167</b>	<b>169</b>	<b>170</b>
<b>1300</b>	<b>195</b>	<b>197</b>	<b>199</b>	<b>202</b>	<b>204</b>	<b>206</b>

1350	229	231	234	236	239	241
1400	262	265	268	271	274	277
1450	295	299	302	305	308	312
1500	310	330	334	338	341	345
1550	319	362	366	370	374	378
1600	327	394	398	402	407	411
1650	336	425	430	435	439	444
1700	344	457	462	467	472	477
1750	353	488	494	499	505	510
1800	361	520	526	532	537	543
1850	370	537	558	564	570	576
1900	378	550	590	596	603	609
1950	387	562	622	629	635	642
2000	395	574	654	661	668	675
2050	403	586	686	693	701	708
2100	412	598	706	726	733	741
2150	420	610	720	758	766	774
2200	428	622	734	790	799	807
2250	437	634	748	823	831	840
2300	445	646	761	851	864	873
2350	453	657	775	866	897	906
2400	462	669	789	882	930	939
2450	470	681	803	897	962	972
2500	478	693	817	913	995	1005
2550	486	705	831	928	1021	1039
2600	495	717	845	944	1038	1072
2650	503	729	859	959	1055	1105
2700	511	741	873	975	1072	1138
2750	520	753	886	990	1089	1171
2800	528	764	900	1006	1106	1202
2850	536	776	914	1021	1123	1221
2900	544	788	928	1037	1140	1240
2950	553	800	942	1052	1157	1258
3000	561	812	956	1068	1175	1277
3050	570	825	971	1084	1193	1297
3100	578	837	985	1101	1211	1316
3150	587	849	1000	1117	1229	1335
3200	595	861	1014	1133	1246	1355
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<del>29350</del>	<del>3800</del>	<del>5571</del>	<del>6612</del>	<del>7404</del>	<del>8190</del>	<del>8940</del>
<del>29400</del>	<del>3807</del>	<del>5581</del>	<del>6623</del>	<del>7417</del>	<del>8204</del>	<del>8955</del>
<del>29450</del>	<del>3813</del>	<del>5590</del>	<del>6634</del>	<del>7429</del>	<del>8218</del>	<del>8970</del>
<del>29500</del>	<del>3820</del>	<del>5600</del>	<del>6646</del>	<del>7442</del>	<del>8232</del>	<del>8985</del>
<del>29550</del>	<del>3826</del>	<del>5609</del>	<del>6657</del>	<del>7455</del>	<del>8246</del>	<del>9001</del>
<del>29600</del>	<del>3832</del>	<del>5619</del>	<del>6668</del>	<del>7467</del>	<del>8260</del>	<del>9016</del>
<del>29650</del>	<del>3839</del>	<del>5628</del>	<del>6679</del>	<del>7480</del>	<del>8274</del>	<del>9031</del>
<del>29700</del>	<del>3845</del>	<del>5638</del>	<del>6691</del>	<del>7493</del>	<del>8288</del>	<del>9046</del>
<del>29750</del>	<del>3852</del>	<del>5647</del>	<del>6702</del>	<del>7505</del>	<del>8302</del>	<del>9061</del>
<del>29800</del>	<del>3858</del>	<del>5657</del>	<del>6713</del>	<del>7518</del>	<del>8316</del>	<del>9077</del>
<del>29850</del>	<del>3865</del>	<del>5666</del>	<del>6724</del>	<del>7530</del>	<del>8330</del>	<del>9092</del>
<del>29900</del>	<del>3871</del>	<del>5676</del>	<del>6736</del>	<del>7543</del>	<del>8343</del>	<del>9107</del>
<del>29950</del>	<del>3878</del>	<del>5685</del>	<del>6747</del>	<del>7556</del>	<del>8357</del>	<del>9122</del>
<del>30000</del>	<del>3884</del>	<del>5695</del>	<del>6758</del>	<del>7568</del>	<del>8371</del>	<del>9138</del>

(g) (1) Subject to paragraphs (2) and (3) of this subsection, actual child care expenses incurred on behalf of a child due to employment or job search of either parent shall be added to the basic obligation and shall be divided between the parents in proportion to their adjusted actual incomes.

(2) Child care expenses shall be:

(i) determined by actual family experience, unless the court determines that the actual family experience is not in the best interest of the child; or

(ii) if there is no actual family experience or if the court determines that actual family experience is not in the best interest of the child:

1. the level required to provide quality care from a licensed source; or

2. if the [custodial parent] OBLIGEE chooses quality child care with an actual cost of an amount less than the level required to provide quality care from a licensed source, the actual cost of the child care expense.

(3) Additional child care expenses may be considered if a child has special needs.

(l) (1) Except in cases of shared physical custody, each parent's child support obligation shall be determined by adding each parent's respective share of the basic child support obligation, work-related child care expenses, health insurance expenses, extraordinary medical expenses, and additional expenses under subsection (i) of this section.

(2) The [custodial parent] **OBLIGEE** shall be presumed to spend that parent's total child support obligation directly on the child or children.

(3) The [noncustodial parent] **OBLIGOR** shall owe that parent's total child support obligation as child support to the [custodial parent] **OBLIGEE** minus any ordered payments included in the calculations made directly by the [noncustodial parent] **OBLIGOR** on behalf of the child or children for work-related child care expenses, health insurance expenses, extraordinary medical expenses, or additional expenses under subsection (i) of this section.

(m) (1) In cases of shared physical custody, the adjusted basic child support obligation shall first be divided between the parents in proportion to their respective adjusted actual incomes.

(2) Each parent's share of the adjusted basic child support obligation shall then be multiplied by the percentage of time the child or children spend with the other parent to determine the theoretical basic child support obligation owed to the other parent.

(3) Subject to the provisions of paragraphs (4) and (5) of this subsection, the parent owing the greater amount under paragraph (2) of this subsection shall owe the difference in the 2 amounts as child support.

(4) In addition to the amount of the child support owed under paragraph (3) of this subsection, if either parent incurs child care expenses under subsection (g) of this section, health insurance expenses under subsection (h)(1) of this section, extraordinary medical expenses under subsection (h)(2) of this section, or additional expenses under subsection (i) of this section, the expense shall be divided between the parents in proportion to their respective adjusted actual incomes. The parent not incurring the expense shall pay that parent's proportionate share to:

(i) the parent making direct payments to the provider of the service; or

(ii) the provider directly, if a court order requires direct payments to the provider.

(5) The amount owed under paragraph (3) of this subsection may not exceed the amount that would be owed under subsection (1) of this section [if the obligor parent were a noncustodial parent].

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

**Chapter 263****(House Bill 500)**

AN ACT concerning

**Child Support Guidelines – Revision**

FOR the purpose of revising the schedule of basic child support obligations used to calculate the amount of a child support award under the child support guidelines; repealing provisions of law establishing that the adoption or revision of the child support guidelines may be grounds for requesting a modification of a child support award based on a material change in circumstances under certain circumstances; establishing that the adoption or revision of the child support guidelines is not a material change of circumstance for the purpose of a modification of a child support award; defining certain terms; making certain clarifying and conforming changes; ~~providing for a delayed effective date;~~ and generally relating to child support.

BY adding to

Article – Family Law  
Section 12–201(j) and (k)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Family Law  
Section 12–201(j) and (k), ~~12–202~~, and 12–204(e), (g), (l), and (m)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 Supplement)

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

**Article – Family Law**

12–201.

**(J) “OBLIGEE” MEANS ANY PERSON WHO IS ENTITLED TO RECEIVE CHILD SUPPORT.**

**(K) “OBLIGOR” MEANS AN INDIVIDUAL WHO IS REQUIRED TO PAY CHILD SUPPORT UNDER A COURT ORDER.**

**[(j)] (L)** “Potential income” means income attributed to a parent determined by the parent’s employment potential and probable earnings level based on, but not limited to, recent work history, occupational qualifications, prevailing job opportunities, and earnings levels in the community.

**[(k)] (M)** (1) “Shared physical custody” means that each parent keeps the child or children overnight for more than 35% of the year and that both parents contribute to the expenses of the child or children in addition to the payment of child support.

(2) Subject to paragraph (1) of this subsection, the court may base a child support award on shared physical custody:

- (i) solely on the amount of visitation awarded; and
- (ii) regardless of whether joint custody has been granted.

12-202.

(a) (1) Subject to the provisions of paragraph (2) of this subsection, in any proceeding to establish or modify child support, whether pendente lite or permanent, the court shall use the child support guidelines set forth in this subtitle.

(2) (i) There is a rebuttable presumption that the amount of child support which would result from the application of the child support guidelines set forth in this subtitle is the correct amount of child support to be awarded.

(ii) The presumption may be rebutted by evidence that the application of the guidelines would be unjust or inappropriate in a particular case.

(iii) In determining whether the application of the guidelines would be unjust or inappropriate in a particular case, the court may consider:

1. the terms of any existing separation or property settlement agreement or court order, including any provisions for payment of mortgages or marital debts, payment of college education expenses, the terms of any use and possession order or right to occupy the family home under an agreement, any direct payments made for the benefit of the children required by agreement or order, or any other financial considerations set out in an existing separation or property settlement agreement or court order; and

2. the presence in the household of either parent of other children to whom that parent owes a duty of support and the expenses for whom that parent is directly contributing.

(iv) The presumption may not be rebutted solely on the basis of evidence of the presence in the household of either parent of other children to whom

that parent owes a duty of support and the expenses for whom that parent is directly contributing.

(v) 1. If the court determines that the application of the guidelines would be unjust or inappropriate in a particular case, the court shall make a written finding or specific finding on the record stating the reasons for departing from the guidelines.

2. The court's finding shall state:

A. the amount of child support that would have been required under the guidelines;

B. how the order varies from the guidelines;

C. how the finding serves the best interests of the child;

and

D. in cases in which items of value are conveyed instead of a portion of the support presumed under the guidelines, the estimated value of the items conveyed.

(b) [(1) Subject to the provisions of paragraph (2) of this subsection, the] **THE adoption or revision of the guidelines set forth in this subtitle [may be grounds for requesting a modification of a child support award based on a material change in circumstances] IS NOT A MATERIAL CHANGE OF CIRCUMSTANCE FOR THE PURPOSE OF A MODIFICATION OF A CHILD SUPPORT AWARD.**

[(2) The adoption or revision of the guidelines set forth in this subtitle may not be grounds for requesting a modification of a child support award based on a material change in circumstances unless the use of the guidelines would result in a change in the award of 25% or more.]

(c) On or before January 1, 1993, and at least every 4 years after that date, the Child Support Enforcement Administration of the Department of Human Resources shall:

(1) review the guidelines set forth in this subtitle to ensure that the application of the guidelines results in the determination of appropriate child support award amounts; and

(2) report its findings and recommendations to the General Assembly, subject to § 2–1246 of the State Government Article.

## (e) Schedule of basic child support obligations:

Combined Adjusted Actual Income	1 Child	2 Children	3 Children	4 Children	5 Children	6 or More Children	
[0-850			\$20 – \$150 Per Month, Based On Resources And Living Expenses Of Obligor And Number Of Children Due Support				
900	184	273	276	279	282	285	
950	191	296	304	307	311	314	
1000	198	307	332	336	340	343	
1050	205	318	360	364	368	372	
1100	212	329	389	393	397	401	
1150	219	339	416	421	425	430	
1200	226	350	438	449	454	458	
1250	233	360	451	477	482	487	
1300	239	371	465	504	510	515	
1350	246	382	478	532	538	544	
1400	253	392	491	554	566	572	
1450	260	403	504	569	594	601	
1500	267	413	517	584	623	629	
1550	274	424	531	599	651	658	
1600	282	436	546	616	672	691	
1650	288	447	559	631	688	725	
1700	295	457	572	645	704	753	
1750	302	467	585	660	720	770	
1800	308	477	598	674	735	787	
1850	315	488	611	689	751	804	
1900	321	498	624	703	767	821	
1950	327	506	634	715	780	835	
2000	332	515	645	727	793	848	
2050	338	523	655	739	806	862	
2100	343	531	666	751	819	876	
2150	349	540	677	763	832	890	
2200	354	548	687	774	845	904	
2250	359	557	698	786	858	918	
2300	365	565	708	798	871	931	
2350	370	573	719	810	884	945	
2400	376	582	729	822	897	959	
2450	381	590	740	833	909	973	
2500	386	598	750	845	922	987	
2550	392	607	761	857	935	1000	
2600	397	615	771	869	948	1014	
2650	403	624	782	881	961	1028	

2700	408	632	793	893	974	1042
2750	413	640	803	904	987	1056
2800	419	649	814	916	1000	1070
2850	424	657	824	928	1013	1083
2900	429	666	835	940	1026	1097
2950	435	675	846	953	1039	1112
3000	441	684	857	965	1053	1126
3050	446	693	868	978	1067	1141
3100	452	702	879	990	1080	1156
3150	458	710	890	1003	1094	1170
3200	463	719	901	1015	1108	1185
3250	469	728	912	1028	1121	1199
3300	475	737	923	1040	1135	1214
3350	480	746	934	1053	1148	1228
3400	486	755	945	1065	1162	1243
3450	491	764	957	1078	1176	1258
3500	497	773	968	1090	1189	1272
3550	503	782	979	1103	1203	1287
3600	508	790	990	1115	1216	1301
3650	514	799	1001	1128	1230	1316
3700	520	808	1012	1140	1244	1330
3750	525	817	1023	1152	1257	1345
3800	532	827	1035	1166	1273	1361
3850	538	837	1048	1181	1288	1378
3900	544	847	1060	1195	1303	1394
3950	551	857	1073	1209	1319	1411
4000	557	867	1085	1223	1334	1427
4050	563	877	1097	1236	1349	1442
4100	569	886	1109	1249	1363	1458
4150	575	895	1120	1262	1377	1473
4200	581	905	1132	1275	1391	1488
4250	587	914	1143	1288	1405	1503
4300	593	923	1155	1301	1420	1518
4350	598	932	1166	1314	1434	1534
4400	604	942	1178	1327	1448	1549
4450	610	951	1189	1340	1462	1564
4500	616	960	1201	1353	1477	1579
4550	622	970	1212	1366	1491	1594
4600	628	979	1224	1379	1505	1610
4650	634	987	1234	1391	1518	1624
4700	639	995	1244	1403	1530	1637
4750	644	1003	1254	1414	1543	1650
4800	649	1011	1264	1425	1555	1663
4850	655	1019	1274	1437	1567	1676
4900	660	1027	1284	1448	1580	1689
4950	665	1035	1294	1459	1592	1703
5000	670	1043	1304	1470	1604	1716

5050	676	1051	1314	1482	1617	1729
5100	681	1059	1324	1493	1629	1742
5150	686	1067	1334	1504	1641	1755
5200	691	1075	1344	1515	1654	1768
5250	696	1083	1354	1527	1666	1781
5300	702	1091	1364	1538	1678	1794
5350	707	1099	1374	1549	1691	1807
5400	712	1107	1384	1561	1703	1821
5450	717	1115	1394	1572	1715	1834
5500	722	1123	1404	1583	1728	1847
5550	728	1131	1414	1594	1740	1860
5600	733	1139	1424	1606	1752	1873
5650	738	1147	1434	1617	1765	1886
5700	743	1155	1444	1628	1777	1899
5750	748	1163	1454	1639	1789	1912
5800	754	1171	1464	1651	1801	1926
5850	759	1179	1474	1662	1814	1939
5900	764	1187	1484	1673	1826	1952
5950	769	1195	1494	1685	1838	1965
6000	774	1203	1504	1696	1851	1978
6050	780	1211	1513	1707	1863	1991
6100	785	1219	1523	1718	1875	2004
6150	790	1227	1533	1730	1888	2017
6200	795	1235	1543	1741	1900	2030
6250	800	1243	1553	1752	1912	2044
6300	806	1251	1563	1763	1925	2057
6350	811	1259	1573	1775	1937	2070
6400	815	1266	1582	1785	1947	2081
6450	819	1271	1589	1793	1956	2091
6500	823	1277	1597	1801	1965	2100
6550	827	1283	1604	1809	1974	2110
6600	831	1289	1611	1817	1983	2119
6650	834	1294	1618	1826	1992	2129
6700	838	1300	1626	1834	2001	2138
6750	842	1306	1633	1842	2010	2148
6800	846	1311	1640	1850	2019	2157
6850	850	1317	1647	1858	2028	2167
6900	854	1323	1654	1866	2037	2176
6950	857	1329	1662	1874	2045	2186
7000	861	1334	1669	1882	2054	2195
7050	865	1340	1676	1891	2063	2205
7100	869	1346	1683	1899	2072	2214
7150	873	1351	1691	1907	2081	2224
7200	876	1357	1698	1915	2090	2233
7250	880	1363	1705	1923	2099	2243
7300	884	1369	1712	1931	2108	2253
7350	888	1374	1720	1939	2117	2262

7400	892	1380	1727	1947	2126	2272
7450	895	1386	1734	1956	2135	2281
7500	899	1391	1741	1964	2144	2291
7550	903	1397	1748	1972	2153	2300
7600	906	1402	1755	1979	2161	2309
7650	909	1407	1761	1986	2168	2317
7700	912	1412	1768	1993	2175	2325
7750	915	1417	1774	1999	2182	2333
7800	918	1422	1780	2006	2190	2340
7850	921	1427	1786	2012	2197	2348
7900	923	1431	1792	2019	2204	2356
7950	926	1436	1798	2026	2211	2364
8000	929	1441	1804	2032	2219	2372
8050	932	1446	1810	2039	2226	2380
8100	935	1451	1817	2045	2233	2388
8150	938	1456	1823	2052	2240	2396
8200	941	1461	1829	2059	2248	2404
8250	944	1465	1835	2065	2255	2412
8300	947	1470	1841	2072	2262	2420
8350	949	1475	1847	2078	2270	2428
8400	952	1480	1853	2085	2277	2436
8450	955	1485	1860	2092	2284	2444
8500	958	1490	1866	2098	2291	2452
8550	961	1494	1872	2105	2299	2460
8600	964	1499	1878	2111	2306	2468
8650	967	1504	1884	2118	2313	2476
8700	970	1509	1890	2125	2320	2484
8750	973	1514	1896	2131	2328	2492
8800	975	1518	1901	2137	2334	2498
8850	978	1521	1906	2142	2340	2504
8900	980	1525	1910	2147	2345	2510
8950	982	1528	1915	2152	2351	2516
9000	989	1539	1928	2168	2367	2534
9050	992	1543	1933	2173	2373	2540
9100	994	1547	1938	2179	2379	2546
9150	997	1551	1943	2184	2385	2552
9200	999	1554	1948	2190	2391	2559
9250	1002	1558	1953	2195	2397	2565
9300	1004	1562	1958	2201	2403	2571
9350	1007	1566	1963	2206	2409	2578
9400	1009	1570	1967	2212	2415	2584
9450	1012	1574	1972	2217	2421	2590
9500	1014	1577	1977	2223	2427	2596
9550	1017	1581	1982	2228	2433	2603
9600	1020	1585	1987	2234	2439	2609
9650	1022	1589	1992	2239	2445	2615
9700	1025	1593	1997	2245	2451	2622

9750	1027	1597	2001	2250	2457	2628
9800	1030	1601	2006	2256	2463	2634
9850	1032	1604	2011	2261	2469	2640
9900	1035	1608	2016	2267	2475	2647
9950	1037	1612	2021	2272	2481	2653
10000	1040	1616	2026	2278	2487	2659]

**100-1200**

**\$20 – \$150 PER MONTH, BASED  
ON RESOURCES AND LIVING  
EXPENSES OF OBLIGOR AND NUMBER  
OF CHILDREN DUE SUPPORT**

1250	162	163	165	167	169	170
1300	195	197	199	202	204	206
1350	229	231	234	236	239	241
1400	262	265	268	271	274	277
1450	295	299	302	305	308	312
1500	310	330	334	338	341	345
1550	319	362	366	370	374	378
1600	327	394	398	402	407	411
1650	336	425	430	435	439	444
1700	344	457	462	467	472	477
1750	353	488	494	499	505	510
1800	361	520	526	532	537	543
1850	370	537	558	564	570	576
1900	378	550	590	596	603	609
1950	387	562	622	629	635	642
2000	395	574	654	661	668	675
2050	403	586	686	693	701	708
2100	412	598	706	726	733	741
2150	420	610	720	758	766	774
2200	428	622	734	790	799	807
2250	437	634	748	823	831	840
2300	445	646	761	851	864	873
2350	453	657	775	866	897	906
2400	462	669	789	882	930	939
2450	470	681	803	897	962	972
2500	478	693	817	913	995	1005
2550	486	705	831	928	1021	1039
2600	495	717	845	944	1038	1072
2650	503	729	859	959	1055	1105
2700	511	741	873	975	1072	1138
2750	520	753	886	990	1089	1171
2800	528	764	900	1006	1106	1202

2850	536	776	914	1021	1123	1221
2900	544	788	928	1037	1140	1240
2950	553	800	942	1052	1157	1258
3000	561	812	956	1068	1175	1277
3050	570	825	971	1084	1193	1297
3100	578	837	985	1101	1211	1316
3150	587	849	1000	1117	1229	1335
3200	595	861	1014	1133	1246	1355
3250	603	874	1029	1149	1264	1374
3300	612	886	1044	1166	1282	1394
3350	620	898	1058	1182	1300	1413
3400	629	911	1073	1198	1318	1433
3450	636	922	1086	1213	1334	1450
3500	644	932	1098	1227	1349	1467
3550	651	943	1111	1241	1365	1483
3600	658	953	1123	1255	1380	1500
3650	665	964	1136	1268	1395	1517
3700	673	974	1148	1282	1411	1533
3750	680	985	1160	1296	1426	1550
3800	687	995	1173	1310	1441	1567
3850	694	1006	1185	1324	1457	1583
3900	702	1016	1198	1338	1472	1600
3950	709	1027	1210	1352	1487	1617
4000	716	1037	1223	1366	1502	1633
4050	723	1048	1235	1379	1517	1649
4100	730	1057	1245	1391	1530	1663
4150	737	1067	1256	1403	1544	1678
4200	744	1076	1267	1416	1557	1693
4250	750	1086	1278	1428	1571	1707
4300	757	1095	1289	1440	1584	1722
4350	764	1105	1300	1452	1597	1736
4400	771	1114	1311	1464	1611	1751
4450	777	1124	1322	1477	1624	1766
4500	784	1133	1333	1489	1638	1780
4550	791	1143	1344	1501	1651	1795
4600	798	1152	1355	1513	1664	1809
4650	804	1162	1366	1525	1678	1824
4700	811	1172	1376	1538	1691	1838
4750	818	1181	1387	1550	1705	1853
4800	825	1191	1398	1562	1718	1868
4850	832	1200	1409	1574	1732	1882
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<del>29900</del>	<del>3871</del>	<del>5676</del>	<del>6736</del>	<del>7543</del>	<del>8343</del>	<del>9107</del>
<del>29950</del>	<del>3878</del>	<del>5685</del>	<del>6747</del>	<del>7556</del>	<del>8357</del>	<del>9122</del>
<del>30000</del>	<del>3884</del>	<del>5695</del>	<del>6758</del>	<del>7568</del>	<del>8371</del>	<del>9138</del>

(g) (1) Subject to paragraphs (2) and (3) of this subsection, actual child care expenses incurred on behalf of a child due to employment or job search of either parent shall be added to the basic obligation and shall be divided between the parents in proportion to their adjusted actual incomes.

(2) Child care expenses shall be:

(i) determined by actual family experience, unless the court determines that the actual family experience is not in the best interest of the child; or

(ii) if there is no actual family experience or if the court determines that actual family experience is not in the best interest of the child:

1. the level required to provide quality care from a licensed source; or

2. if the [custodial parent] **OBLIGEE** chooses quality child care with an actual cost of an amount less than the level required to provide quality care from a licensed source, the actual cost of the child care expense.

(3) Additional child care expenses may be considered if a child has special needs.

(1) (1) Except in cases of shared physical custody, each parent's child support obligation shall be determined by adding each parent's respective share of the basic child support obligation, work-related child care expenses, health insurance expenses, extraordinary medical expenses, and additional expenses under subsection (i) of this section.

(2) The [custodial parent] **OBLIGEE** shall be presumed to spend that parent's total child support obligation directly on the child or children.

(3) The [noncustodial parent] **OBLIGOR** shall owe that parent's total child support obligation as child support to the [custodial parent] **OBLIGEE** minus any ordered payments included in the calculations made directly by the [noncustodial parent] **OBLIGOR** on behalf of the child or children for work-related child care expenses, health insurance expenses, extraordinary medical expenses, or additional expenses under subsection (i) of this section.

(m) (1) In cases of shared physical custody, the adjusted basic child support obligation shall first be divided between the parents in proportion to their respective adjusted actual incomes.

(2) Each parent's share of the adjusted basic child support obligation shall then be multiplied by the percentage of time the child or children spend with the other parent to determine the theoretical basic child support obligation owed to the other parent.

(3) Subject to the provisions of paragraphs (4) and (5) of this subsection, the parent owing the greater amount under paragraph (2) of this subsection shall owe the difference in the 2 amounts as child support.

(4) In addition to the amount of the child support owed under paragraph (3) of this subsection, if either parent incurs child care expenses under subsection (g) of this section, health insurance expenses under subsection (h)(1) of this section, extraordinary medical expenses under subsection (h)(2) of this section, or additional expenses under subsection (i) of this section, the expense shall be divided between the parents in proportion to their respective adjusted actual incomes. The parent not incurring the expense shall pay that parent's proportionate share to:

(i) the parent making direct payments to the provider of the service; or

(ii) the provider directly, if a court order requires direct payments to the provider.

(5) The amount owed under paragraph (3) of this subsection may not exceed the amount that would be owed under subsection (l) of this section [if the obligor parent were a noncustodial parent].

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, ~~2010~~ ~~2011~~ 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 264

### (Senate Bill 255)

AN ACT concerning

#### **Criminal Law – Assault – Law Enforcement Officers and Parole and Probation Agents**

FOR the purpose of prohibiting a person from intentionally causing physical injury to another if the person knows or has reason to know that the other is a parole or probation agent engaged in performing the agent's official duties; ~~establishing penalties for a violation of this Act; increasing the penalty for the crime of intentionally causing physical injury to another if the person knows or has reason to know that the other is a law enforcement officer engaged in the performance of the officer's official duties;~~ and generally relating to assaults on law enforcement officers and parole and probation agents.

BY repealing and reenacting, without amendments,  
Article – Criminal Law  
Section 3–201  
Annotated Code of Maryland  
(2002 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
Article – Criminal Law  
Section 3–203  
Annotated Code of Maryland  
(2002 Volume and 2009 Supplement)

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

**Article – Criminal Law**

3–201.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Assault” means the crimes of assault, battery, and assault and battery, which retain their judicially determined meanings.
- (c) (1) “Law enforcement officer” has the meaning stated in § 3–101(e)(1) of the Public Safety Article without application of § 3–101(e)(2).
  - (2) “Law enforcement officer” includes:
    - (i) a correctional officer at a correctional facility; and
    - (ii) an officer employed by the WMATA Metro Transit Police, subject to the jurisdictional limitations under Article XVI, § 76 of the Washington Metropolitan Area Transit Authority Compact, which is codified in § 10–204 of the Transportation Article.
- (d) “Serious physical injury” means physical injury that:
  - (1) creates a substantial risk of death; or
  - (2) causes permanent or protracted serious:
    - (i) disfigurement;
    - (ii) loss of the function of any bodily member or organ; or
    - (iii) impairment of the function of any bodily member or organ.

3–203.

- (a) A person may not commit an assault.
- (b) Except as provided in subsection (c) of this section, a person who violates subsection (a) of this section is guilty of the misdemeanor of assault in the second degree and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$2,500 or both.
- (c) (1) In this subsection, “physical injury” means any impairment of physical condition, excluding minor injuries.

(2) A person may not intentionally cause physical injury to another if the person knows or has reason to know that the other is:

(I) a law enforcement officer engaged in the performance of the officer's official duties; OR

(II) A PAROLE OR PROBATION AGENT ENGAGED IN THE PERFORMANCE OF THE AGENT'S OFFICIAL DUTIES.

(3) A person who violates paragraph (2) of this subsection is guilty of the felony of assault in the second degree and on conviction is subject to imprisonment not exceeding ~~10~~ 15 years or a fine not exceeding ~~\$5,000~~ \$10,000 or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 265

### (House Bill 365)

AN ACT concerning

### **Criminal Law – Assault – Law Enforcement Officers and Parole and Probation Agents**

FOR the purpose of prohibiting a person from intentionally causing physical injury to another if the person knows or has reason to know that the other is a parole or probation agent engaged in performing the agent's official duties; establishing penalties for a violation of this Act; ~~increasing the penalty for the crime of intentionally causing physical injury to another if the person knows or has reason to know that the other is a law enforcement officer engaged in the performance of the officer's official duties;~~ and generally relating to assaults on law enforcement officers and parole and probation agents.

BY repealing and reenacting, without amendments,  
Article – Criminal Law  
Section 3-201  
Annotated Code of Maryland  
(2002 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
Article – Criminal Law

Section 3–203  
Annotated Code of Maryland  
(2002 Volume and 2009 Supplement)

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

**Article – Criminal Law**

3–201.

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

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

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

(2) “Law enforcement officer” includes:

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

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

(d) “Serious physical injury” means physical injury that:

(1) creates a substantial risk of death; or

(2) causes permanent or protracted serious:

(i) disfigurement;

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

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

3–203.

(a) A person may not commit an assault.

(b) Except as provided in subsection (c) of this section, a person who violates subsection (a) of this section is guilty of the misdemeanor of assault in the second

degree and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$2,500 or both.

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

(2) A person may not intentionally cause physical injury to another if the person knows or has reason to know that the other is:

(I) a law enforcement officer engaged in the performance of the officer’s official duties; OR

(II) A PAROLE OR PROBATION AGENT ENGAGED IN THE PERFORMANCE OF THE AGENT’S OFFICIAL DUTIES.

(3) A person who violates paragraph (2) of this subsection is guilty of the felony of assault in the second degree and on conviction is subject to imprisonment not exceeding ~~10~~ 15 years or a fine not exceeding ~~\$5,000~~ \$10,000 or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 266

### (Senate Bill 256)

AN ACT concerning

### Public Schools – Physical Education Facilities

FOR the purpose of requiring the State Department of Education to adopt regulations that require a public school that is newly constructed or completely renovated and occupied on or after a certain date to include a gymnasium and adequate support space for physical education instruction; requiring certain regulations to include a certain process to request a waiver from a certain requirement for certain reasons; requiring the Department to adopt guidelines for facilities for physical education programs; providing for the application of this Act; and generally relating to physical education facilities in public schools.

BY repealing and reenacting, with amendments,  
Article – Education  
Section 7–409

Annotated Code of Maryland  
(2008 Replacement Volume and 2009 Supplement)

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

**Article – Education**

7–409.

(a) Each public school shall have a program of physical education that is given in a planned and sequential manner to all students, kindergarten through grade 12, to develop their good health and physical fitness and improve their motor coordination and physical skills.

(b) **(1)** The Department shall [employ]:

~~(1)~~ **(I)** EMPLOY a full–time director of physical education;

~~(2)~~ **(II)** ADOPT SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ADOPT REGULATIONS THAT REQUIRE A PUBLIC SCHOOL BUILDING THAT IS NEWLY CONSTRUCTED OR COMPLETELY RENOVATED AND OCCUPIED ON OR AFTER JANUARY 1, 2013, TO INCLUDE A GYMNASIUM AND ADEQUATE SUPPORT SPACE FOR PHYSICAL EDUCATION INSTRUCTION; AND

~~(3)~~ **(III)** ADOPT GUIDELINES FOR FACILITIES FOR PHYSICAL EDUCATION PROGRAMS.

**(2)** THE REGULATIONS ADOPTED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL INCLUDE A PROCESS BY WHICH A LOCAL SCHOOL SYSTEM THAT IS CONDUCTING A COMPLETE RENOVATION OF A PUBLIC SCHOOL BUILDING MAY REQUEST A WAIVER, BASED ON LAND OR ZONING CONSTRAINTS, FROM THE REQUIREMENT TO INCLUDE A GYMNASIUM.

(c) Each local school system may develop and implement an annual Wellness Policy Implementation and Monitoring Plan to be used to:

(1) Establish baseline student data for the health–related components of physical fitness;

(2) Assist students with the development of personal physical fitness plans;

(3) Encourage appropriate interventions for students identified as having unhealthy levels of physical fitness;

(4) Identify effective practices for improvement of student health–related physical fitness; and

(5) Encourage partnerships with health agencies to address student health–related issues in the State.

(d) The Department shall:

(1) Develop a procedure to monitor and measure the implementation of a local school system’s Wellness Policy Implementation and Monitoring Plan;

(2) Provide feedback and technical assistance to each local school system that implements a Wellness Policy Implementation and Monitoring Plan;

(3) Identify and distribute to each local school system effective wellness policy practices for physical activity and physical education; and

(4) Provide staff support to each local school system that implements a Wellness Policy Implementation and Monitoring Plan.

(e) Each local school system that implements a Wellness Policy Implementation and Monitoring Plan under subsection (c) of this section shall submit to the Department:

(1) The local school system’s Wellness Policy Implementation and Monitoring Plan, that shall include:

(i) Policy goals;

(ii) Activities;

(iii) Expected outcomes; and

(iv) Measurements for physical activity and physical education;

and

(2) An annual report on the local school system’s progress toward achieving the policy goals of the implementation plan.

(f) (1) The Department shall establish an Advisory Council on Health and Physical Education.

(2) The Advisory Council shall consist of the following members, selected by each organization from which the member is a representative:

(i) A representative from the Department;

- (ii) A representative from the Maryland Parent–Teacher Association;
- (iii) A representative from the Maryland State Teachers Association;
- (iv) A representative from the Public School Superintendents Association of Maryland;
- (v) Representatives from each local school system;
- (vi) A representative from the Maryland Association of Boards of Education;
- (vii) A representative from the Maryland Association of Counties;
- (viii) A representative from the Governor’s Council on Physical Fitness and Sport;
- (ix) A representative of the Professional Organization for Health, Physical Education, Recreation, and Dance;
- (x) A representative from an institution of higher education having a health and physical education teacher education program;
- (xi) A representative from Special Olympics of Maryland;
- (xii) A representative from the Department of Health and Mental Hygiene;
- (xiii) A representative from the American Academy of Pediatrics;
- and
- (xiv) Representatives from the following health organizations:
1. The American Heart Association;
  2. The American Cancer Society; and
  3. The American Diabetes Association.

(3) From among its members, the Council shall elect a chair, vice chair, and any other officers necessary to carry out the Advisory Council’s functions.

(4) The Department shall provide staff and other necessary support to the Advisory Council using existing resources.

(5) A member of the Advisory Council may not receive compensation for serving on the Advisory Council, but is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(6) The Advisory Council shall meet at least twice each year and may hold additional meetings at the discretion of the chair or at the request of a majority of the members.

(7) The Advisory Council shall:

(i) Develop and coordinate programs in collaboration with public schools to educate students regarding the importance of:

1. Physical activity and physical movement;
2. The relationship of physical activity to a healthy lifestyle and improved fitness;
3. The relationship between healthy eating, physical activity, and maintaining a healthy weight; and
4. The value of physical activity and its relationship to improved academic achievement and stress reduction; and

(ii) Identify promising health and physical education practices in the State;

(iii) Build a network of health and physical education professionals to share information and strengthen partnerships;

(iv) Support successful health and physical education programs in the State and encourage the expansion of those programs; and

(v) Consult with organizations represented on the Advisory Council as appropriate.

(8) The Advisory Council may:

(i) Seek, accept, and expend funds from any source, including donations, State appropriations, and federal grants; and

(ii) Seek, accept, and use services from individuals, corporations, and government entities.

SECTION 2. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall apply to newly constructed or completely renovated public schools that have not

initiated a Request for Proposal for the selection of an architectural and engineering consultant on or before the effective date of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 267

(House Bill 334)

AN ACT concerning

### Public Schools – Physical Education Facilities

FOR the purpose of requiring the State Department of Education to adopt regulations that require ~~certain public schools~~ a public school that is newly constructed or completely renovated and occupied on or after a certain date to include a gymnasium and ~~support spaces~~ adequate support space for physical education instruction ~~and~~; requiring certain regulations to include a certain process to request a waiver from a certain requirement for certain reasons; requiring the Department to adopt guidelines for facilities for physical education programs; providing for the application of this Act; and generally relating to physical education facilities in public schools.

BY repealing and reenacting, with amendments,  
 Article – Education  
 Section 7–409  
 Annotated Code of Maryland  
 (2008 Replacement Volume and 2009 Supplement)

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

### Article – Education

7–409.

(a) Each public school shall have a program of physical education that is given in a planned and sequential manner to all students, kindergarten through grade 12, to develop their good health and physical fitness and improve their motor coordination and physical skills.

(b) **(1)** The Department shall ~~employ~~:

**(I) EMPLOY** a full-time director of physical education;

**(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ADOPT REGULATIONS THAT REQUIRE A PUBLIC SCHOOL BUILDING THAT IS NEWLY CONSTRUCTED OR COMPLETELY RENOVATED AND OCCUPIED ON OR AFTER JANUARY 1, 2013, TO INCLUDE A GYMNASIUM AND ADEQUATE SUPPORT SPACE FOR PHYSICAL EDUCATION INSTRUCTION; AND**

**(III) ADOPT GUIDELINES FOR FACILITIES FOR PHYSICAL EDUCATION PROGRAMS.**

**(2) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL INCLUDE A PROCESS BY WHICH A LOCAL SCHOOL SYSTEM THAT IS CONDUCTING A COMPLETE RENOVATION OF A PUBLIC SCHOOL BUILDING MAY REQUEST A WAIVER, BASED ON LAND OR ZONING CONSTRAINTS, FROM THE REQUIREMENT TO INCLUDE A GYMNASIUM.**

(c) Each local school system may develop and implement an annual Wellness Policy Implementation and Monitoring Plan to be used to:

(1) Establish baseline student data for the health-related components of physical fitness;

(2) Assist students with the development of personal physical fitness plans;

(3) Encourage appropriate interventions for students identified as having unhealthy levels of physical fitness;

(4) Identify effective practices for improvement of student health-related physical fitness; and

(5) Encourage partnerships with health agencies to address student health-related issues in the State.

(d) The Department shall:

(1) Develop a procedure to monitor and measure the implementation of a local school system's Wellness Policy Implementation and Monitoring Plan;

(2) Provide feedback and technical assistance to each local school system that implements a Wellness Policy Implementation and Monitoring Plan;

(3) Identify and distribute to each local school system effective wellness policy practices for physical activity and physical education; and

(4) Provide staff support to each local school system that implements a Wellness Policy Implementation and Monitoring Plan.

(e) Each local school system that implements a Wellness Policy Implementation and Monitoring Plan under subsection (c) of this section shall submit to the Department:

(1) The local school system's Wellness Policy Implementation and Monitoring Plan, that shall include:

- (i) Policy goals;
- (ii) Activities;
- (iii) Expected outcomes; and
- (iv) Measurements for physical activity and physical education;

and

(2) An annual report on the local school system's progress toward achieving the policy goals of the implementation plan.

(f) (1) The Department shall establish an Advisory Council on Health and Physical Education.

(2) The Advisory Council shall consist of the following members, selected by each organization from which the member is a representative:

- (i) A representative from the Department;
- (ii) A representative from the Maryland Parent-Teacher Association;
- (iii) A representative from the Maryland State Teachers Association;
- (iv) A representative from the Public School Superintendents Association of Maryland;
- (v) Representatives from each local school system;
- (vi) A representative from the Maryland Association of Boards of Education;
- (vii) A representative from the Maryland Association of Counties;

(viii) A representative from the Governor's Council on Physical Fitness and Sport;

(ix) A representative of the Professional Organization for Health, Physical Education, Recreation, and Dance;

(x) A representative from an institution of higher education having a health and physical education teacher education program;

(xi) A representative from Special Olympics of Maryland;

(xii) A representative from the Department of Health and Mental Hygiene;

(xiii) A representative from the American Academy of Pediatrics;  
and

(xiv) Representatives from the following health organizations:

1. The American Heart Association;

2. The American Cancer Society; and

3. The American Diabetes Association.

(3) From among its members, the Council shall elect a chair, vice chair, and any other officers necessary to carry out the Advisory Council's functions.

(4) The Department shall provide staff and other necessary support to the Advisory Council using existing resources.

(5) A member of the Advisory Council may not receive compensation for serving on the Advisory Council, but is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(6) The Advisory Council shall meet at least twice each year and may hold additional meetings at the discretion of the chair or at the request of a majority of the members.

(7) The Advisory Council shall:

(i) Develop and coordinate programs in collaboration with public schools to educate students regarding the importance of:

1. Physical activity and physical movement;

2. The relationship of physical activity to a healthy lifestyle and improved fitness;

3. The relationship between healthy eating, physical activity, and maintaining a healthy weight; and

4. The value of physical activity and its relationship to improved academic achievement and stress reduction; and

(ii) Identify promising health and physical education practices in the State;

(iii) Build a network of health and physical education professionals to share information and strengthen partnerships;

(iv) Support successful health and physical education programs in the State and encourage the expansion of those programs; and

(v) Consult with organizations represented on the Advisory Council as appropriate.

(8) The Advisory Council may:

(i) Seek, accept, and expend funds from any source, including donations, State appropriations, and federal grants; and

(ii) Seek, accept, and use services from individuals, corporations, and government entities.

**~~(C) THE DEPARTMENT SHALL:~~**

**~~(1) ADOPT REGULATIONS THAT REQUIRE ALL PUBLIC SCHOOL BUILDINGS NEWLY CONSTRUCTED OR COMPLETELY RENOVATED AND OCCUPIED AFTER JANUARY 1, 2013, TO INCLUDE A GYMNASIUM AND SUPPORT SPACES FOR PHYSICAL EDUCATION INSTRUCTION; AND~~**

**~~(2) ADOPT GUIDELINES FOR FACILITIES FOR PHYSICAL EDUCATION PROGRAMS.~~**

SECTION 2. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall apply to newly constructed or completely renovated public schools that have not initiated a Request for Proposal for the selection of an architectural and engineering consultant on or before the effective date of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 268

### (Senate Bill 288)

AN ACT concerning

#### **Maryland Dormant Mineral Interests Act**

FOR the purpose of stating the purpose of this Act; authorizing a certain owner of real property to maintain an action to terminate a certain mineral interest under certain circumstances; establishing certain actions that constitute use of a mineral interest; requiring a certain owner to bring a certain action in the circuit court of a certain jurisdiction under certain circumstances; authorizing an owner of a mineral interest to record the mineral interest under certain circumstances; providing that a mineral interest is preserved in the county in which the notice is recorded; authorizing certain individuals to record a certain notice under certain circumstances; requiring certain information to be included in a certain notice; requiring a mineral interest to be identified in a certain manner; requiring a court to permit a certain owner to record a late notice under certain circumstances; authorizing the circuit court of a certain jurisdiction to place a severed mineral interest into trust under certain circumstances, to appoint a trustee for the trust, and to order or authorize the trustee to take certain actions on behalf of the trust; authorizing a person vested in certain property to institute proceedings to create a trust and to appoint a trustee; authorizing a certain trustee to file a petition containing certain elements to terminate the trust and to convey title to a severed mineral interest under certain circumstances; requiring the court to enter an order requiring the trustee to convey the title to a severed mineral interest to a certain party under certain circumstances; requiring the trustee to take certain actions if the court issues the order; providing that certain surface owners are entitled to certain proceeds after the conveyance of the severed mineral interest by the trustee; requiring the court to terminate the trust and discharge the trustee after receiving a certain report from the trustee; ~~providing that a certain lease will remain in force and effect following certain events unless it has previously expired by its own terms;~~ requiring certain provisions to be administered in accordance with the Maryland Rules; requiring certain notice, forms, and hearing procedures to be in accordance with the Maryland Rules; defining certain terms; providing for the application of this Act; making the provisions of this Act severable; and generally relating to dormant mineral interests.

BY adding to

## Article – Environment

Section 15–1201 through 15–1206 to be under the new subtitle “Subtitle 12. Maryland Dormant Mineral Interests Act”

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

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

**Article – Environment**

**SUBTITLE 12. MARYLAND DORMANT MINERAL INTERESTS ACT.**

**15–1201.**

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

(B) “MINERAL INTEREST” MEANS AN INTEREST IN A MINERAL ESTATE, HOWEVER CREATED AND REGARDLESS OF FORM, WHETHER ABSOLUTE OR FRACTIONAL, DIVIDED OR UNDIVIDED, CORPOREAL OR INCORPOREAL, INCLUDING A FEE SIMPLE OR ANY LESSER INTEREST OR ANY KIND OF ROYALTY, PRODUCTION PAYMENT, EXECUTIVE RIGHT, NONEXECUTIVE RIGHT, LEASEHOLD, OR LIEN IN MINERALS, REGARDLESS OF CHARACTER.

(C) “MINERAL” INCLUDES:

- (1) GAS;
- (2) OIL AND OIL SHALE;
- (3) COAL;
- (4) GASEOUS, LIQUID, AND SOLID HYDROCARBONS;
- (5) CEMENT MATERIALS, SAND AND GRAVEL, ROAD MATERIALS, AND BUILDING STONE;
- (6) CHEMICAL SUBSTANCES;
- (7) GEMSTONE, METALLIC, FISSIONABLE, AND NONFISSIONABLE ORES; AND
- (8) COLLOIDAL AND OTHER CLAY, STEAM, AND GEOTHERMAL RESOURCES.

(D) “SEVERED MINERAL INTEREST” MEANS A MINERAL INTEREST THAT IS SEVERED FROM THE INTEREST IN THE SURFACE ESTATE OVERLYING THE MINERAL INTEREST.

(E) “SURFACE ESTATE” MEANS AN INTEREST IN THE ESTATE OVERLYING A MINERAL INTEREST.

(F) (1) “SURFACE OWNER” MEANS ANY PERSON VESTED WITH A WHOLE OR UNDIVIDED FEE SIMPLE INTEREST OR OTHER FREEHOLD INTEREST IN THE SURFACE ESTATE.

(2) “SURFACE OWNER” DOES NOT INCLUDE THE OWNER OF A RIGHT-OF-WAY, EASEMENT, OR LEASEHOLD ON THE SURFACE ESTATE.

(G) (1) “UNKNOWN OR MISSING OWNER” MEANS ANY PERSON VESTED WITH A SEVERED MINERAL INTEREST WHOSE PRESENT IDENTITY OR LOCATION CANNOT BE DETERMINED:

(I) FROM THE RECORDS OF THE COUNTY WHERE THE SEVERED MINERAL INTEREST IS LOCATED; OR

(II) BY DILIGENT INQUIRY IN THE VICINITY OF THE OWNER’S LAST KNOWN PLACE OF RESIDENCE.

(2) “UNKNOWN OR MISSING OWNER” INCLUDES THE HEIRS, SUCCESSORS, OR ASSIGNEES OF AN UNKNOWN OR MISSING OWNER.

15-1202.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS SUBTITLE APPLIES TO ALL MINERAL INTERESTS.

(2) THIS SUBTITLE DOES NOT APPLY TO A MINERAL INTEREST:

(I) HELD BY THE UNITED STATES OR A NATIVE AMERICAN TRIBE, EXCEPT TO THE EXTENT PERMITTED BY FEDERAL LAW; OR

(II) HELD BY THE STATE OR AN AGENCY OR POLITICAL SUBDIVISION OF THE STATE, EXCEPT TO THE EXTENT PERMITTED BY STATE LAW.

(B) THE PURPOSE OF THIS SUBTITLE IS TO MAKE UNIFORM THE LAW GOVERNING DORMANT MINERAL INTERESTS AMONG THE STATES.

(C) THIS SUBTITLE DOES NOT LIMIT OR AFFECT ANY OTHER PROCEDURE PROVIDED BY LAW FOR CLEARING AN ABANDONED MINERAL INTEREST FROM TITLE TO REAL PROPERTY.

(D) THIS SUBTITLE DOES NOT LIMIT OR AFFECT WATER RIGHTS.

15-1203.

(A) (1) ON OR AFTER OCTOBER 1, 2011, A SURFACE OWNER OF REAL PROPERTY THAT IS SUBJECT TO A MINERAL INTEREST MAY MAINTAIN AN ACTION TO TERMINATE A DORMANT MINERAL INTEREST.

(2) A MINERAL INTEREST IS DORMANT FOR THE PURPOSE OF THIS SUBTITLE IF:

(I) THE MINERAL INTEREST IS UNUSED FOR A PERIOD OF 20 OR MORE YEARS PRECEDING THE COMMENCEMENT OF TERMINATION OF THE MINERAL INTEREST; AND

(II) NOTICE OF THE MINERAL INTEREST WAS NOT RECORDED DURING THE PERIOD OF 20 OR MORE YEARS PRECEDING THE COMMENCEMENT OF TERMINATION OF THE MINERAL INTEREST.

(B) (1) THE ACTION MUST BE IN THE NATURE OF AND REQUIRE THE SAME NOTICE AS IS REQUIRED IN AN ACTION TO QUIET TITLE AS SET FORTH IN § 14-108 OF THE REAL PROPERTY ARTICLE.

(2) THE ACTION MAY BE MAINTAINED, WHETHER OR NOT THE OWNER OF THE SEVERED MINERAL INTEREST IS AN UNKNOWN OR MISSING OWNER.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE FOLLOWING ACTIONS TAKEN BY OR UNDER THE AUTHORITY OF THE OWNER OF A MINERAL INTEREST IN RELATION TO ANY MINERAL THAT IS PART OF THE MINERAL INTEREST SHALL CONSTITUTE USE OF THE ENTIRE MINERAL INTEREST:

(I) ACTIVE MINERAL OPERATIONS ON OR BELOW THE SURFACE OF THE REAL PROPERTY OR OTHER PROPERTY UTILIZED OR POOLED WITH THE REAL PROPERTY, INCLUDING PRODUCTION, GEOPHYSICAL EXPLORATION, EXPLORATORY OR DEVELOPMENTAL DRILLING, MINING, EXPLOITATION, AND DEVELOPMENT OF MINERALS;

(II) PAYMENT OF TAXES ON A SEPARATE ASSESSMENT OF THE MINERAL INTEREST OR OF A TRANSFER OR SEVERANCE TAX RELATING TO THE MINERAL INTEREST, IN ACCORDANCE WITH § 8-229 OF THE TAX – PROPERTY ARTICLE;

(III) RECORDATION OF AN INSTRUMENT THAT CREATES, RESERVES, OR OTHERWISE EVIDENCES A CLAIM TO, OR THE CONTINUED EXISTENCE OF, THE MINERAL INTEREST, INCLUDING AN INSTRUMENT THAT TRANSFERS, LEASES, OR DIVIDES THE INTEREST; AND

(IV) RECORDATION OF A JUDGMENT OR DECREE THAT MAKES A SPECIFIC REFERENCE TO THE MINERAL INTEREST.

(2) THE INJECTION OF SUBSTANCES FOR THE PURPOSE OF DISPOSAL OR STORAGE DOES NOT CONSTITUTE USE OF A MINERAL INTEREST.

(D) (1) A SURFACE OWNER OF REAL PROPERTY THAT IS SUBJECT TO A MINERAL INTEREST WHO BRINGS AN ACTION TO TERMINATE A DORMANT MINERAL INTEREST IN ACCORDANCE WITH THIS SECTION SHALL BRING THE ACTION IN THE CIRCUIT COURT OF THE JURISDICTION IN WHICH THE REAL PROPERTY IS LOCATED.

(2) A COURT ORDER THAT TERMINATES A MINERAL INTEREST MERGES THE TERMINATED MINERAL INTEREST, INCLUDING EXPRESS AND IMPLIED APPURTENANT SURFACE RIGHTS AND OBLIGATIONS, WITH THE SURFACE ESTATE IN SHARES PROPORTIONATE TO THE OWNERSHIP OF THE SURFACE ESTATE, SUBJECT TO EXISTING LIENS FOR TAXES OR ASSESSMENTS.

(E) THIS SECTION SHALL APPLY NOTWITHSTANDING ANY PROVISION TO THE CONTRARY IN:

(1) THE INSTRUMENT THAT CREATES, RESERVES, TRANSFERS, LEASES, DIVIDES, OR OTHERWISE EVIDENCES THE CLAIM TO, OR THE CONTINUED EXISTENCE OF, THE MINERAL INTEREST; OR

(2) ANOTHER RECORDED DOCUMENT, UNLESS THE INSTRUMENT OR OTHER RECORDED DOCUMENT PROVIDES AN EARLIER TERMINATION DATE.

15-1204.

(A) (1) AN OWNER OF A MINERAL INTEREST MAY RECORD, AT ANY TIME, A NOTICE OF INTENT TO PRESERVE THE MINERAL INTEREST OR A PART OF A MINERAL INTEREST.

(2) A MINERAL INTEREST IS PRESERVED IN THE COUNTY IN WHICH THE NOTICE IS RECORDED.

(B) (1) THE FOLLOWING INDIVIDUALS MAY RECORD A NOTICE IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION:

(I) AN OWNER OF THE MINERAL INTEREST;

(II) ANOTHER PERSON ~~ACTING~~ LEGALLY AUTHORIZED TO ACT ON BEHALF OF THE OWNER IF THE OWNER:

~~1. IS DISABLED OR UNABLE TO ASSERT A CLAIM ON THE OWNER'S BEHALF; OR~~

~~2. CANNOT BE IDENTIFIED; OR~~

(III) A CO-OWNER, FOR THE BENEFIT OF ANY OR ALL CO-OWNERS.

(2) A NOTICE RECORDED UNDER SUBSECTION (A) OF THIS SECTION SHALL CONTAIN:

(I) THE NAME OF THE OWNER, OR CO-OWNERS, OF THE MINERAL INTEREST, ~~OR THE CO-OWNERS OR OTHER PERSONS FOR WHOM THE MINERAL INTEREST IS TO BE PRESERVED; OR~~

(II) IF THE IDENTITY OF THE OWNER CANNOT BE DETERMINED, INFORMATION THAT STATES THAT THE OWNER CANNOT BE DETERMINED; AND

(III) AN IDENTIFICATION OF THE MINERAL INTEREST OR PART OF THE MINERAL INTEREST TO BE PRESERVED, IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.

(C) A MINERAL INTEREST SHALL BE IDENTIFIED BY:

(1) A REFERENCE TO THE LOCATION IN THE RECORDS OF THE INSTRUMENT THAT CREATES, RESERVES, OR OTHERWISE EVIDENCES THE INTEREST;

(2) THE JUDGMENT OR DECREE THAT CONFIRMS THE MINERAL INTEREST;

(3) A LEGAL DESCRIPTION OF THE MINERAL INTEREST, IF ACCOMPANIED BY A REFERENCE TO THE NAME OF THE RECORD OWNER UNDER WHOM THE OWNER OF THE MINERAL INTEREST CLAIMS; OR

(4) A GENERAL REFERENCE TO ANY OR ALL MINERAL INTERESTS OF THE OWNER IN ANY REAL PROPERTY SITUATED IN THE COUNTY, IF:

(I) A PREVIOUSLY RECORDED INSTRUMENT CREATED, RESERVED, OR OTHERWISE EVIDENCED THE MINERAL INTEREST; OR

(II) A JUDGMENT OR DECREE CONFIRMS THE MINERAL INTEREST.

#### 15-1205.

(A) IN THIS SECTION, “LITIGATION EXPENSES” MEANS COSTS AND EXPENSES THAT THE COURT DETERMINES ARE REASONABLY AND NECESSARILY INCURRED IN PREPARING FOR AND PROSECUTING AN ACTION, INCLUDING REASONABLE ATTORNEY’S FEES.

(B) IN AN ACTION TO TERMINATE A MINERAL INTEREST IN ACCORDANCE WITH § 15-1203 OF THIS SUBTITLE, THE COURT SHALL PERMIT THE OWNER OF THE MINERAL INTEREST TO RECORD A LATE NOTICE OF INTENT TO PRESERVE THE MINERAL INTEREST AS A CONDITION OF DISMISSAL OF THE ACTION, IF THE OWNER OF THE MINERAL INTEREST PAYS THE LITIGATION EXPENSES INCURRED BY THE SURFACE OWNER OF THE REAL PROPERTY THAT IS SUBJECT TO THE MINERAL INTEREST.

(C) THIS SECTION DOES NOT APPLY IN AN ACTION IN WHICH A MINERAL INTEREST HAS BEEN UNUSED IN ACCORDANCE WITH § 15-1203 OF THIS SUBTITLE FOR A PERIOD OF 40 YEARS OR MORE PRECEDING THE COMMENCEMENT OF THE ACTION.

#### 15-1206.

(A) IF THE TITLE TO A SEVERED MINERAL INTEREST IS VESTED IN AN UNKNOWN OR MISSING OWNER, THE CIRCUIT COURT OF THE COUNTY WHERE THE SEVERED MINERAL INTEREST IS LOCATED MAY ON PETITION, AND AFTER NOTICE AND A HEARING:

(1) PLACE THE SEVERED MINERAL INTEREST IN TRUST BY ORDER;

(2) APPOINT A TRUSTEE FOR THE UNKNOWN OR MISSING OWNER;

(3) ORDER THE TRUSTEE TO CREATE A SEPARATE TRUST BANK ACCOUNT TO MANAGE ALL TRUST ASSETS;

(4) AUTHORIZE THE TRUSTEE TO SELL, EXECUTE, AND DELIVER A VALID LEASE ON THE MINERALS TO THE OWNER OF THE SURFACE ESTATE; AND

(5) PLACE CONDITIONS ON THE AUTHORIZATION IN ITEM (4) OF THIS SUBSECTION.

(B) A PETITION TO CREATE A TRUST FOR A SEVERED MINERAL INTEREST AND TO APPOINT A TRUSTEE UNDER SUBSECTION (A) OF THIS SECTION MAY BE FILED BY A PERSON VESTED IN:

~~(1) FEE FEE SIMPLE WITH THE WHOLE OR UNDIVIDED INTEREST IN THE SURFACE ESTATE OR ESTATES;~~

~~(2) FEE SIMPLE WITH THE WHOLE OR UNDIVIDED INTEREST IN MINERAL INTERESTS THAT ARE ADJACENT AND CONTIGUOUS TO THE SEVERED MINERAL INTEREST VESTED IN AN UNKNOWN OR MISSING OWNER; OR~~

~~(3) A VALID MINERAL LEASE WITH THE WHOLE OR UNDIVIDED INTEREST IN THE INTERESTS SET FORTH IN ITEM (1) OR (2) OF THIS SUBSECTION.~~

(C) (1) IF THE UNKNOWN OR MISSING OWNER OF A VESTED SEVERED MINERAL INTEREST DOES NOT CONTEST A TRUST CREATED UNDER SUBSECTION (A)(1) OF THIS SECTION ON OR BEFORE 5 YEARS AFTER THE DATE THAT THE COURT ISSUED THE ORDER CREATING THE TRUST, THE TRUSTEE SHALL FILE A PETITION TO TERMINATE THE TRUST AND TO CONVEY TITLE TO THE SEVERED MINERAL INTEREST TO THE SURFACE OWNERS.

(2) THE PETITION IN PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) NAME AS DEFENDANTS:

1. THE SURFACE OWNERS; AND
2. ANY OTHER PERSON WITH A LEGAL INTEREST IN THE SEVERED MINERAL INTEREST, INCLUDING ANY UNKNOWN OR MISSING OWNERS; AND

(II) INCLUDE:

1. A LEGAL DESCRIPTION OF THE SEVERED MINERAL INTEREST;
2. A DESCRIPTION OF THE PUTATIVE PROPERTY INTERESTS OF EACH OF THE PARTIES;
3. THE LAST KNOWN ADDRESS OF EACH OF THE PARTIES;
4. AN AFFIDAVIT SIGNED BY THE SURFACE OWNERS, AFFIRMING FEE SIMPLE OWNERSHIP OF THE SURFACE ESTATE OR ESTATES, AND REQUESTING THE COURT TO CONVEY TITLE TO THE SEVERED MINERAL INTEREST AT ISSUE; AND
5. AN AFFIDAVIT SIGNED BY THE TRUSTEE, AFFIRMING THAT:

~~A.~~ ~~AFTER~~ AFTER CONDUCTING A DILIGENT INQUIRY, INCLUDING A SEARCH IN THE COUNTY WHERE THE SEVERED MINERAL INTEREST IS LOCATED, PERFORMED IN ACCORDANCE WITH GENERALLY ACCEPTED STANDARDS OF TITLE EXAMINATION OF THE LAND RECORDS OF THE COUNTY, RECORDS OF REGISTER OF WILLS OF THE COUNTY, AND RECORDS OF THE CIRCUIT COURT FOR THE COUNTY, THE TRUSTEE CANNOT LOCATE THE UNKNOWN OR MISSING OWNER;~~AND~~

~~B.~~ ~~THERE IS A PERSON WILLING TO PURCHASE A MINERAL LEASE FOR THE SEVERED MINERAL INTEREST HELD BY THE UNKNOWN OR MISSING OWNER.~~

(D) FOLLOWING A PETITION BY THE TRUSTEE MADE UNDER SUBSECTION (C) OF THIS SECTION, THE COURT SHALL, AFTER NOTICE, HOLD A HEARING ON THE MOTION AND ENTER AN ORDER REQUIRING THE TRUSTEE TO CONVEY THE UNKNOWN OR MISSING OWNER'S MINERAL INTEREST TO THE NAMED SURFACE OWNERS IF:

(1) THE UNKNOWN OR MISSING OWNER DOES NOT APPEAR TO CONTEST THE PETITION; AND

(2) THE COURT FINDS THAT THE INDIVIDUALS NAMED IN THE PETITION AS THE SURFACE OWNERS ARE IN FACT THE FEE SIMPLE OWNERS OF THE SURFACE ESTATE OR ESTATES.

(E) IF THE COURT ORDERS THE CONVEYANCE IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION, THE TRUSTEE SHALL:

(1) CONVEY BY RECORDABLE INSTRUMENT THE UNKNOWN OR MISSING OWNER'S SEVERED MINERAL INTEREST TO THE NAMED SURFACE OWNERS;

(2) PAY FROM ANY TRUST ACCOUNT ALL REQUIRED TAXES, COURT COSTS, EXPENSES, AND FEES, INCLUDING ANY FEE FOR SERVICES TO THE TRUSTEE AUTHORIZED BY THE COURT;

(3) PAY ANY BALANCE REMAINING IN ANY TRUST ACCOUNT AFTER THE PAYMENTS SET FORTH IN ITEM (2) OF THIS SUBSECTION TO THE NAMED SURFACE OWNERS;

(4) CLOSE ANY TRUST ACCOUNT; AND

(5) MAKE A FINAL REPORT TO THE COURT ACCOUNTING FOR THE FINANCIAL TRANSACTIONS OF THE TRUST.

(F) AFTER THE CONVEYANCE TO THE SURFACE OWNERS IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION, THE SURFACE OWNERS SHALL BE ENTITLED TO RECEIVE ALL PROCEEDS FROM THE LEASE OF THE MINERAL INTEREST CONVEYED.

(G) AFTER RECEIVING THE FINAL REPORT OF THE TRUSTEE IN ACCORDANCE WITH SUBSECTION (E)(5) OF THIS SECTION, THE COURT SHALL ORDER THE TRUST TERMINATED AND THE TRUSTEE DISCHARGED.

~~(H) A LEASE AUTHORIZED BY THE COURT UNDER SUBSECTION (A)(4) OF THIS SECTION SHALL CONTINUE IN FORCE AND EFFECT AFTER THE TERMINATION OF THE TRUST OR THE MERGER OF THE MINERAL INTEREST WITH THE SURFACE ESTATE OR ESTATES UNLESS THE LEASE HAS PREVIOUSLY EXPIRED BY ITS OWN TERMS.~~

~~(H)~~ (H) (1) A TRUST CREATED UNDER THIS SECTION SHALL BE ADMINISTERED BY THE COURT AS PROVIDED BY THE MARYLAND RULES.

(2) UNDER THIS SECTION, PROCEDURES FOR NOTICE TO INTERESTED PERSONS, THE FORMS OF PETITIONS, AND THE CONDUCT AND REQUIREMENTS AT A HEARING SHALL BE AS PROVIDED BY THE MARYLAND RULES.

SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 269

### (House Bill 320)

AN ACT concerning

#### **Maryland Dormant Mineral Interests Act**

FOR the purpose of stating the purpose of this Act; authorizing a certain owner of real property to maintain an action to terminate a certain mineral interest under certain circumstances; establishing certain actions that constitute use of a mineral interest; requiring a certain owner to bring a certain action in the circuit court of a certain jurisdiction under certain circumstances; authorizing an owner of a mineral interest to record the mineral interest under certain circumstances; providing that a mineral interest is preserved in the county in which the notice is recorded; authorizing certain individuals to record a certain notice under certain circumstances; requiring certain information to be included in a certain notice; requiring a mineral interest to be identified in a certain manner; requiring a court to permit a certain owner to record a late notice under certain circumstances; authorizing the circuit court of a certain jurisdiction to place a severed mineral interest into trust under certain circumstances, to appoint a trustee for the trust, and to order or authorize the trustee to take certain actions on behalf of the trust; authorizing a person vested in certain property to institute proceedings to create a trust and to appoint a trustee; authorizing a certain trustee to file a petition containing certain elements to terminate the trust and to convey title to a severed mineral interest under certain circumstances; requiring the court to enter an order requiring the trustee to convey the title to a severed mineral interest to a certain party under certain circumstances; requiring the trustee to take certain actions if the court issues the order; providing that certain surface owners are entitled to certain proceeds after the conveyance of the severed mineral interest by the trustee; requiring the court to terminate the trust and discharge the trustee after receiving a certain report from the trustee; ~~providing that a certain~~

~~lease will remain in force and effect following certain events unless it has previously expired by its own terms;~~ requiring certain provisions to be administered in accordance with the Maryland Rules; requiring certain notice, forms, and hearing procedures to be in accordance with the Maryland Rules; defining certain terms; providing for the application of this Act; making the provisions of this Act severable; and generally relating to dormant mineral interests.

BY adding to

Article – Environment

Section 15–1201 through 15–1206 to be under the new subtitle “Subtitle 12. Maryland Dormant Mineral Interests Act”

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

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

**Article – Environment**

**SUBTITLE 12. MARYLAND DORMANT MINERAL INTERESTS ACT.**

**15–1201.**

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

(B) “MINERAL INTEREST” MEANS AN INTEREST IN A MINERAL ESTATE, HOWEVER CREATED AND REGARDLESS OF FORM, WHETHER ABSOLUTE OR FRACTIONAL, DIVIDED OR UNDIVIDED, CORPOREAL OR INCORPOREAL, INCLUDING A FEE SIMPLE OR ANY LESSER INTEREST OR ANY KIND OF ROYALTY, PRODUCTION PAYMENT, EXECUTIVE RIGHT, NONEXECUTIVE RIGHT, LEASEHOLD, OR LIEN IN MINERALS, REGARDLESS OF CHARACTER.

(C) “MINERAL” INCLUDES:

- (1) GAS;
- (2) OIL AND OIL SHALE;
- (3) COAL;
- (4) GASEOUS, LIQUID, AND SOLID HYDROCARBONS;

(5) CEMENT MATERIALS, SAND AND GRAVEL, ROAD MATERIALS, AND BUILDING STONE;

(6) CHEMICAL SUBSTANCES;

(7) GEMSTONE, METALLIC, FISSIONABLE, AND NONFISSIONABLE ORES; AND

(8) COLLOIDAL AND OTHER CLAY, STEAM, AND GEOTHERMAL RESOURCES.

(D) “SEVERED MINERAL INTEREST” MEANS A MINERAL INTEREST THAT IS SEVERED FROM THE INTEREST IN THE SURFACE ESTATE OVERLYING THE MINERAL INTEREST.

(E) “SURFACE ESTATE” MEANS AN INTEREST IN THE ESTATE OVERLYING A MINERAL INTEREST.

(F) (1) “SURFACE OWNER” MEANS ANY PERSON VESTED WITH A WHOLE OR UNDIVIDED FEE SIMPLE INTEREST OR OTHER FREEHOLD INTEREST IN THE SURFACE ESTATE.

(2) “SURFACE OWNER” DOES NOT INCLUDE THE OWNER OF A RIGHT-OF-WAY, EASEMENT, OR LEASEHOLD ON THE SURFACE ESTATE.

(G) (1) “UNKNOWN OR MISSING OWNER” MEANS ANY PERSON VESTED WITH A SEVERED MINERAL INTEREST WHOSE PRESENT IDENTITY OR LOCATION CANNOT BE DETERMINED:

(I) FROM THE RECORDS OF THE COUNTY WHERE THE SEVERED MINERAL INTEREST IS LOCATED; OR

(II) BY DILIGENT INQUIRY IN THE VICINITY OF THE OWNER’S LAST KNOWN PLACE OF RESIDENCE.

(2) “UNKNOWN OR MISSING OWNER” INCLUDES THE HEIRS, SUCCESSORS, OR ASSIGNEES OF AN UNKNOWN OR MISSING OWNER.

15-1202.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS SUBTITLE APPLIES TO ALL MINERAL INTERESTS.

(2) THIS SUBTITLE DOES NOT APPLY TO A MINERAL INTEREST:

(I) HELD BY THE UNITED STATES OR A NATIVE AMERICAN TRIBE, EXCEPT TO THE EXTENT PERMITTED BY FEDERAL LAW; OR

(II) HELD BY THE STATE OR AN AGENCY OR POLITICAL SUBDIVISION OF THE STATE, EXCEPT TO THE EXTENT PERMITTED BY STATE LAW.

(B) THE PURPOSE OF THIS SUBTITLE IS TO MAKE UNIFORM THE LAW GOVERNING DORMANT MINERAL INTERESTS AMONG THE STATES.

(C) THIS SUBTITLE DOES NOT LIMIT OR AFFECT ANY OTHER PROCEDURE PROVIDED BY LAW FOR CLEARING AN ABANDONED MINERAL INTEREST FROM TITLE TO REAL PROPERTY.

(D) THIS SUBTITLE DOES NOT LIMIT OR AFFECT WATER RIGHTS.

**15-1203.**

(A) (1) ON OR AFTER OCTOBER 1, 2011, A SURFACE OWNER OF REAL PROPERTY THAT IS SUBJECT TO A MINERAL INTEREST MAY MAINTAIN AN ACTION TO TERMINATE A DORMANT MINERAL INTEREST.

(2) A MINERAL INTEREST IS DORMANT FOR THE PURPOSE OF THIS SUBTITLE IF:

(I) THE MINERAL INTEREST IS UNUSED FOR A PERIOD OF 20 OR MORE YEARS PRECEDING THE COMMENCEMENT OF TERMINATION OF THE MINERAL INTEREST; AND

(II) NOTICE OF THE MINERAL INTEREST WAS NOT RECORDED DURING THE PERIOD OF 20 OR MORE YEARS PRECEDING THE COMMENCEMENT OF TERMINATION OF THE MINERAL INTEREST.

(B) (1) THE ACTION MUST BE IN THE NATURE OF AND REQUIRE THE SAME NOTICE AS IS REQUIRED IN AN ACTION TO QUIET TITLE AS SET FORTH IN § 14-108 OF THE REAL PROPERTY ARTICLE.

(2) THE ACTION MAY BE MAINTAINED, WHETHER OR NOT THE OWNER OF THE SEVERED MINERAL INTEREST IS AN UNKNOWN OR MISSING OWNER.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE FOLLOWING ACTIONS TAKEN BY OR UNDER THE AUTHORITY

OF THE OWNER OF A MINERAL INTEREST IN RELATION TO ANY MINERAL THAT IS PART OF THE MINERAL INTEREST SHALL CONSTITUTE USE OF THE ENTIRE MINERAL INTEREST:

(I) ACTIVE MINERAL OPERATIONS ON OR BELOW THE SURFACE OF THE REAL PROPERTY OR OTHER PROPERTY UTILIZED OR POOLED WITH THE REAL PROPERTY, INCLUDING PRODUCTION, GEOPHYSICAL EXPLORATION, EXPLORATORY OR DEVELOPMENTAL DRILLING, MINING, EXPLOITATION, AND DEVELOPMENT OF MINERALS;

(II) PAYMENT OF TAXES ON A SEPARATE ASSESSMENT OF THE MINERAL INTEREST OR OF A TRANSFER OR SEVERANCE TAX RELATING TO THE MINERAL INTEREST, IN ACCORDANCE WITH § 8-229 OF THE TAX – PROPERTY ARTICLE;

(III) RECORDATION OF AN INSTRUMENT THAT CREATES, RESERVES, OR OTHERWISE EVIDENCES A CLAIM TO, OR THE CONTINUED EXISTENCE OF, THE MINERAL INTEREST, INCLUDING AN INSTRUMENT THAT TRANSFERS, LEASES, OR DIVIDES THE INTEREST; AND

(IV) RECORDATION OF A JUDGMENT OR DECREE THAT MAKES A SPECIFIC REFERENCE TO THE MINERAL INTEREST.

(2) THE INJECTION OF SUBSTANCES FOR THE PURPOSE OF DISPOSAL OR STORAGE DOES NOT CONSTITUTE USE OF A MINERAL INTEREST.

(D) (1) A SURFACE OWNER OF REAL PROPERTY THAT IS SUBJECT TO A MINERAL INTEREST WHO BRINGS AN ACTION TO TERMINATE A DORMANT MINERAL INTEREST IN ACCORDANCE WITH THIS SECTION SHALL BRING THE ACTION IN THE CIRCUIT COURT OF THE JURISDICTION IN WHICH THE REAL PROPERTY IS LOCATED.

(2) A COURT ORDER THAT TERMINATES A MINERAL INTEREST MERGES THE TERMINATED MINERAL INTEREST, INCLUDING EXPRESS AND IMPLIED APPURTENANT SURFACE RIGHTS AND OBLIGATIONS, WITH THE SURFACE ESTATE IN SHARES PROPORTIONATE TO THE OWNERSHIP OF THE SURFACE ESTATE, SUBJECT TO EXISTING LIENS FOR TAXES OR ASSESSMENTS.

(E) THIS SECTION SHALL APPLY NOTWITHSTANDING ANY PROVISION TO THE CONTRARY IN:

(1) THE INSTRUMENT THAT CREATES, RESERVES, TRANSFERS, LEASES, DIVIDES, OR OTHERWISE EVIDENCES THE CLAIM TO, OR THE CONTINUED EXISTENCE OF, THE MINERAL INTEREST; OR

(2) ANOTHER RECORDED DOCUMENT, UNLESS THE INSTRUMENT OR OTHER RECORDED DOCUMENT PROVIDES AN EARLIER TERMINATION DATE.

15-1204.

(A) (1) AN OWNER OF A MINERAL INTEREST MAY RECORD, AT ANY TIME, A NOTICE OF INTENT TO PRESERVE THE MINERAL INTEREST OR A PART OF A MINERAL INTEREST.

(2) A MINERAL INTEREST IS PRESERVED IN THE COUNTY IN WHICH THE NOTICE IS RECORDED.

(B) (1) THE FOLLOWING INDIVIDUALS MAY RECORD A NOTICE IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION:

(I) AN OWNER OF THE MINERAL INTEREST;

(II) ANOTHER PERSON ~~ACTING~~ LEGALLY AUTHORIZED TO ACT ON BEHALF OF THE OWNER IF THE OWNER:

~~1. IS DISABLED OR UNABLE TO ASSERT A CLAIM ON THE OWNER'S BEHALF; OR~~

~~2. CANNOT BE IDENTIFIED; OR~~

(III) A CO-OWNER, FOR THE BENEFIT OF ANY OR ALL CO-OWNERS.

(2) A NOTICE RECORDED UNDER SUBSECTION (A) OF THIS SECTION SHALL CONTAIN:

(I) THE NAME OF THE OWNER, OR CO-OWNERS, OF THE MINERAL INTEREST, ~~OR THE CO-OWNERS OR OTHER PERSONS FOR WHOM THE MINERAL INTEREST IS TO BE PRESERVED;~~ OR

(II) IF THE IDENTITY OF THE OWNER CANNOT BE DETERMINED, INFORMATION THAT STATES THAT THE OWNER CANNOT BE DETERMINED; AND

(III) AN IDENTIFICATION OF THE MINERAL INTEREST OR PART OF THE MINERAL INTEREST TO BE PRESERVED, IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.

**(C) A MINERAL INTEREST SHALL BE IDENTIFIED BY:**

**(1) A REFERENCE TO THE LOCATION IN THE RECORDS OF THE INSTRUMENT THAT CREATES, RESERVES, OR OTHERWISE EVIDENCES THE INTEREST;**

**(2) THE JUDGMENT OR DECREE THAT CONFIRMS THE MINERAL INTEREST;**

**(3) A LEGAL DESCRIPTION OF THE MINERAL INTEREST, IF ACCOMPANIED BY A REFERENCE TO THE NAME OF THE RECORD OWNER UNDER WHOM THE OWNER OF THE MINERAL INTEREST CLAIMS; OR**

**(4) A GENERAL REFERENCE TO ANY OR ALL MINERAL INTERESTS OF THE OWNER IN ANY REAL PROPERTY SITUATED IN THE COUNTY, IF:**

**(I) A PREVIOUSLY RECORDED INSTRUMENT CREATED, RESERVED, OR OTHERWISE EVIDENCED THE MINERAL INTEREST; OR**

**(II) A JUDGMENT OR DECREE CONFIRMS THE MINERAL INTEREST.**

**15-1205.**

**(A) IN THIS SECTION, “LITIGATION EXPENSES” MEANS COSTS AND EXPENSES THAT THE COURT DETERMINES ARE REASONABLY AND NECESSARILY INCURRED IN PREPARING FOR AND PROSECUTING AN ACTION, INCLUDING REASONABLE ATTORNEY’S FEES.**

**(B) IN AN ACTION TO TERMINATE A MINERAL INTEREST IN ACCORDANCE WITH § 15-1203 OF THIS SUBTITLE, THE COURT SHALL PERMIT THE OWNER OF THE MINERAL INTEREST TO RECORD A LATE NOTICE OF INTENT TO PRESERVE THE MINERAL INTEREST AS A CONDITION OF DISMISSAL OF THE ACTION, IF THE OWNER OF THE MINERAL INTEREST PAYS THE LITIGATION EXPENSES INCURRED BY THE SURFACE OWNER OF THE REAL PROPERTY THAT IS SUBJECT TO THE MINERAL INTEREST.**

**(C) THIS SECTION DOES NOT APPLY IN AN ACTION IN WHICH A MINERAL INTEREST HAS BEEN UNUSED IN ACCORDANCE WITH § 15-1203 OF THIS SUBTITLE FOR A PERIOD OF 40 YEARS OR MORE PRECEDING THE COMMENCEMENT OF THE ACTION.**

**15-1206.**

(A) IF THE TITLE TO A SEVERED MINERAL INTEREST IS VESTED IN AN UNKNOWN OR MISSING OWNER, THE CIRCUIT COURT OF THE COUNTY WHERE THE SEVERED MINERAL INTEREST IS LOCATED MAY ON PETITION, AND AFTER NOTICE AND A HEARING:

- (1) PLACE THE SEVERED MINERAL INTEREST IN TRUST BY ORDER;
- (2) APPOINT A TRUSTEE FOR THE UNKNOWN OR MISSING OWNER;
- (3) ORDER THE TRUSTEE TO CREATE A SEPARATE TRUST BANK ACCOUNT TO MANAGE ALL TRUST ASSETS;
- (4) AUTHORIZE THE TRUSTEE TO SELL, EXECUTE, AND DELIVER A VALID LEASE ON THE MINERALS TO THE OWNER OF THE SURFACE ESTATE; AND
- (5) PLACE CONDITIONS ON THE AUTHORIZATION IN ITEM (4) OF THIS SUBSECTION.

(B) A PETITION TO CREATE A TRUST FOR A SEVERED MINERAL INTEREST AND TO APPOINT A TRUSTEE UNDER SUBSECTION (A) OF THIS SECTION MAY BE FILED BY A PERSON VESTED IN:

~~(1) FEE FEE~~ FEE SIMPLE WITH THE WHOLE OR UNDIVIDED INTEREST IN THE SURFACE ESTATE OR ESTATES;

~~(2) FEE SIMPLE WITH THE WHOLE OR UNDIVIDED INTEREST IN MINERAL INTERESTS THAT ARE ADJACENT AND CONTIGUOUS TO THE SEVERED MINERAL INTEREST VESTED IN AN UNKNOWN OR MISSING OWNER; OR~~

~~(3) A VALID MINERAL LEASE WITH THE WHOLE OR UNDIVIDED INTEREST IN THE INTERESTS SET FORTH IN ITEM (1) OR (2) OF THIS SUBSECTION.~~

(C) (1) IF THE UNKNOWN OR MISSING OWNER OF A VESTED SEVERED MINERAL INTEREST DOES NOT CONTEST A TRUST CREATED UNDER SUBSECTION (A)(1) OF THIS SECTION ON OR BEFORE 5 YEARS AFTER THE DATE THAT THE COURT ISSUED THE ORDER CREATING THE TRUST, THE TRUSTEE SHALL FILE A PETITION TO TERMINATE THE TRUST AND TO CONVEY TITLE TO THE SEVERED MINERAL INTEREST TO THE SURFACE OWNERS.

(2) THE PETITION IN PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) NAME AS DEFENDANTS:

1. THE SURFACE OWNERS; AND
2. ANY OTHER PERSON WITH A LEGAL INTEREST IN THE SEVERED MINERAL INTEREST, INCLUDING ANY UNKNOWN OR MISSING OWNERS; AND

(II) INCLUDE:

1. A LEGAL DESCRIPTION OF THE SEVERED MINERAL INTEREST;
2. A DESCRIPTION OF THE PUTATIVE PROPERTY INTERESTS OF EACH OF THE PARTIES;
3. THE LAST KNOWN ADDRESS OF EACH OF THE PARTIES;
4. AN AFFIDAVIT SIGNED BY THE SURFACE OWNERS, AFFIRMING FEE SIMPLE OWNERSHIP OF THE SURFACE ESTATE OR ESTATES, AND REQUESTING THE COURT TO CONVEY TITLE TO THE SEVERED MINERAL INTEREST AT ISSUE; AND
5. AN AFFIDAVIT SIGNED BY THE TRUSTEE, AFFIRMING THAT:

~~A.~~ AFTER ~~AFTER~~ CONDUCTING A DILIGENT INQUIRY, INCLUDING A SEARCH IN THE COUNTY WHERE THE SEVERED MINERAL INTEREST IS LOCATED, PERFORMED IN ACCORDANCE WITH GENERALLY ACCEPTED STANDARDS OF TITLE EXAMINATION OF THE LAND RECORDS OF THE COUNTY, RECORDS OF REGISTER OF WILLS OF THE COUNTY, AND RECORDS OF THE CIRCUIT COURT FOR THE COUNTY, THE TRUSTEE CANNOT LOCATE THE UNKNOWN OR MISSING OWNER;~~AND~~

~~B. THERE IS A PERSON WILLING TO PURCHASE A MINERAL LEASE FOR THE SEVERED MINERAL INTEREST HELD BY THE UNKNOWN OR MISSING OWNER.~~

(D) FOLLOWING A PETITION BY THE TRUSTEE MADE UNDER SUBSECTION (C) OF THIS SECTION, THE COURT SHALL, AFTER NOTICE, HOLD A HEARING ON THE MOTION AND ENTER AN ORDER REQUIRING THE TRUSTEE TO CONVEY THE UNKNOWN OR MISSING OWNER'S MINERAL INTEREST TO THE NAMED SURFACE OWNERS IF:

(1) THE UNKNOWN OR MISSING OWNER DOES NOT APPEAR TO CONTEST THE PETITION; AND

(2) THE COURT FINDS THAT THE INDIVIDUALS NAMED IN THE PETITION AS THE SURFACE OWNERS ARE IN FACT THE FEE SIMPLE OWNERS OF THE SURFACE ESTATE OR ESTATES.

(E) IF THE COURT ORDERS THE CONVEYANCE IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION, THE TRUSTEE SHALL:

(1) CONVEY BY RECORDABLE INSTRUMENT THE UNKNOWN OR MISSING OWNER'S SEVERED MINERAL INTEREST TO THE NAMED SURFACE OWNERS;

(2) PAY FROM ANY TRUST ACCOUNT ALL REQUIRED TAXES, COURT COSTS, EXPENSES, AND FEES, INCLUDING ANY FEE FOR SERVICES TO THE TRUSTEE AUTHORIZED BY THE COURT;

(3) PAY ANY BALANCE REMAINING IN ANY TRUST ACCOUNT AFTER THE PAYMENTS SET FORTH IN ITEM (2) OF THIS SUBSECTION TO THE NAMED SURFACE OWNERS;

(4) CLOSE ANY TRUST ACCOUNT; AND

(5) MAKE A FINAL REPORT TO THE COURT ACCOUNTING FOR THE FINANCIAL TRANSACTIONS OF THE TRUST.

(F) AFTER THE CONVEYANCE TO THE SURFACE OWNERS IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION, THE SURFACE OWNERS SHALL BE ENTITLED TO RECEIVE ALL PROCEEDS FROM THE LEASE OF THE MINERAL INTEREST CONVEYED.

(G) AFTER RECEIVING THE FINAL REPORT OF THE TRUSTEE IN ACCORDANCE WITH SUBSECTION (E)(5) OF THIS SECTION, THE COURT SHALL ORDER THE TRUST TERMINATED AND THE TRUSTEE DISCHARGED.

~~(H) A LEASE AUTHORIZED BY THE COURT UNDER SUBSECTION (A)(4) OF THIS SECTION SHALL CONTINUE IN FORCE AND EFFECT AFTER THE TERMINATION OF THE TRUST OR THE MERGER OF THE MINERAL INTEREST WITH THE SURFACE ESTATE OR ESTATES UNLESS THE LEASE HAS PREVIOUSLY EXPIRED BY ITS OWN TERMS.~~

~~(H)~~ **(H)** (1) A TRUST CREATED UNDER THIS SECTION SHALL BE ADMINISTERED BY THE COURT AS PROVIDED BY THE MARYLAND RULES.

(2) UNDER THIS SECTION, PROCEDURES FOR NOTICE TO INTERESTED PERSONS, THE FORMS OF PETITIONS, AND THE CONDUCT AND REQUIREMENTS AT A HEARING SHALL BE AS PROVIDED BY THE MARYLAND RULES.

SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 270

(Senate Bill 292)

AN ACT concerning

~~Elections – Voter Registration and Voting – Age~~  
Election Law – Voter Registration and Nomination by Petition –  
Requirements

FOR the purpose of altering the qualifications for voter registration to allow an individual who is at least 16 years old to register to vote; ~~specifying that an individual is not eligible to vote until a certain election in which the individual is 18 years old or older; and generally relating to the age when an individual becomes qualified to register to vote and to vote~~ specifying that an individual under the age of 18 years may vote in certain primary elections but may not vote in any other elections; altering the deadline for requesting a change of party affiliation to coincide with the deadline for registering to vote for an election; altering the date on which the number of petition signatures required for a candidate to be nominated by petition is determined; making conforming changes; and generally relating to requirements for voter registration and nomination by petition.

BY repealing and reenacting, with amendments,

Article – Election Law  
 Section 3–102, 3–303, and 5–703(e)  
 Annotated Code of Maryland  
 (2003 Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,

Article – Election Law  
Section 3–302  
Annotated Code of Maryland  
(2003 Volume and 2009 Supplement)

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

**Article – Election Law**

3–102.

(a) (1) Except as provided in subsection (b) of this section, an individual may become registered to vote if the individual:

[(1)] (I) is a citizen of the United States;

[(2)] (II) is at least [18] **16** years old [or will be 18 years old on or before the day of the next succeeding general or special election];

[(3)] (III) is a resident of the State as of the day the individual seeks to register; and

[(4)] (IV) registers pursuant to this title.

(2) **NOTWITHSTANDING PARAGRAPH (1)(II) OF THIS SUBSECTION, AN INDIVIDUAL IS NOT QUALIFIED TO VOTE UNTIL THE FIRST GENERAL OR SPECIAL ELECTION THAT OCCURS WHILE THE INDIVIDUAL IS 18 YEARS OLD OR OLDER UNDER THE AGE OF 18 YEARS:**

**(I) MAY VOTE IN A PRIMARY ELECTION IN WHICH CANDIDATES ARE NOMINATED FOR A GENERAL OR SPECIAL ELECTION THAT WILL OCCUR WHEN THE INDIVIDUAL IS AT LEAST 18 YEARS OLD; AND**

**(II) MAY NOT VOTE IN ANY OTHER ELECTION.**

(b) An individual is not qualified to be a registered voter if the individual:

(1) has been convicted of a felony and is actually serving a court-ordered sentence of imprisonment, including any term of parole or probation, for the conviction;

(2) is under guardianship for mental disability; or

(3) has been convicted of buying or selling votes.

3-302.

(a) Registration is closed beginning at 9 p.m. on the 21st day preceding an election until the 11th day after that election.

(b) A voter registration application received when registration is closed shall be accepted and retained by a local board, but the registration of the applicant does not become effective until registration reopens.

(c) A voter registration application that is received by the local board after the close of registration shall be considered timely received for the next election provided:

(1) there is sufficient evidence, as determined by the local board pursuant to regulations adopted by the State Board, that the application was mailed on or before registration was closed for that election; or

(2) the application was submitted by the voter to the Motor Vehicle Administration, a voter registration agency, another local board, or the State Board prior to the close of registration.

3-303.

(a) [Except as provided in subsections (b) and (c) of this section, a] A local board, at the signed request of a registered voter, shall change that voter's party affiliation, or change the voter to or from a decline, at any time that registration is open.

(b) [(1) Except as provided in paragraph (2) of this subsection, party affiliation may not be changed:

(i) from 9 p.m. on the Monday, or the next regular business day if the Monday is a legal holiday, that is 12 weeks before the day on which a primary election is to be held under § 8-201 of this article, until and including the day on which the registration reopens after the primary election is held; and

(ii) from and including the day of issuance of a gubernatorial proclamation calling a special election, pursuant to § 8-710 of this article, or from 5

p.m. on the next regular business day if the day of issuance is a legal holiday, until and including the day on which that special election is held.

(2) If a voter requests a party affiliation change during a period specified in paragraph (1) of this subsection, the local board shall make the change if  
**IF A LOCAL BOARD RECEIVES A REQUEST FOR A PARTY AFFILIATION CHANGE AFTER THE CLOSE OF REGISTRATION, THE LOCAL BOARD SHALL MAKE THE CHANGE AND IT SHALL BECOME EFFECTIVE FOR THE NEXT ELECTION PROVIDED:**

**[(i)] (1)** there is sufficient evidence, as determined by the local boards pursuant to regulations adopted by the State Board, that the request was mailed [before the beginning of the period specified in paragraph (1) of this subsection] ON OR BEFORE THE CLOSE OF REGISTRATION FOR THAT ELECTION;  
or

**[(ii)] (2)** the request was submitted by the voter to the Motor Vehicle Administration, a voter registration agency, another local board, or the State Board [before the beginning of the period specified in paragraph (1) of this subsection] ON OR BEFORE THE CLOSE OF REGISTRATION FOR THAT ELECTION.

**[(c)** If a registered voter has moved from one county to another within the State since the last general election, the voter may change party affiliation or change to or from a decline, one time only, during a period specified in subsection (b)(1) of this section.

**(d)** An individual whose registration has been canceled at the individual's request within a period specified in subsection (b) of this section may not reregister in the same county during the same period with a party affiliation or nonaffiliation different from the previous registration.]

5-703.

**(e) (1)** A candidate who seeks nomination by petition may not have the candidate's name placed on the general election ballot unless the candidate files with the appropriate board petitions signed by not less than 1% of the total number of registered voters who are eligible to vote for the office for which the nomination by petition is sought, except that the petitions shall be signed by at least 250 registered voters who are eligible to vote for the office.

**(2)** The petitions shall be filed as required in Title 6 of this article.

**(3)** The number of registered voters required to satisfy the requirements of paragraph (1) of this section shall be determined as of [the deadline for changing party affiliation before] **JANUARY 1 OF THE YEAR OF** the primary election for which the nomination is sought.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 271

(House Bill 217)

AN ACT concerning

~~Elections – Voter Registration and Voting Age~~  
**Election Law – Voter Registration and Nomination by Petition – Requirements**

FOR the purpose of altering the qualifications for voter registration to allow an individual who is at least 16 years old to register to vote; ~~specifying that an individual is not eligible to vote until a certain election in which the individual is 18 years old or older; and generally relating to the age when an individual becomes qualified to register to vote and to vote~~ specifying that an individual under the age of 18 years may vote in certain primary elections but may not vote in any other elections; altering the deadline for requesting a change of party affiliation to coincide with the deadline for registering to vote for an election; altering the date on which the number of petition signatures required for a candidate to be nominated by petition is determined; making conforming changes; and generally relating to requirements for voter registration and nomination by petition.

BY repealing and reenacting, with amendments,

Article – Election Law  
Section 3–102, 3–303, and 5–703(e)  
Annotated Code of Maryland  
(2003 Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,

Article – Election Law  
Section 3–302  
Annotated Code of Maryland  
(2003 Volume and 2009 Supplement)

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

**Article – Election Law**

3-102.

(a) **(1)** Except as provided in subsection (b) of this section, an individual may become registered to vote if the individual:

[(1)] **(I)** is a citizen of the United States;

[(2)] **(II)** is at least [18] **16** years old [or will be 18 years old on or before the day of the next succeeding general or special election];

[(3)] **(III)** is a resident of the State as of the day the individual seeks to register; and

[(4)] **(IV)** registers pursuant to this title.

**(2) NOTWITHSTANDING PARAGRAPH (1)(II) OF THIS SUBSECTION, AN INDIVIDUAL IS NOT QUALIFIED TO VOTE UNTIL THE FIRST GENERAL OR SPECIAL ELECTION THAT OCCURS WHILE THE INDIVIDUAL IS 18 YEARS OLD OR OLDER UNDER THE AGE OF 18 YEARS:**

**(I) MAY VOTE IN A PRIMARY ELECTION IN WHICH CANDIDATES ARE NOMINATED FOR A GENERAL OR SPECIAL ELECTION THAT WILL OCCUR WHEN THE INDIVIDUAL IS AT LEAST 18 YEARS OLD; AND**

**(II) MAY NOT VOTE IN ANY OTHER ELECTION.**

(b) An individual is not qualified to be a registered voter if the individual:

(1) has been convicted of a felony and is actually serving a court-ordered sentence of imprisonment, including any term of parole or probation, for the conviction;

(2) is under guardianship for mental disability; or

(3) has been convicted of buying or selling votes.

3-302.

(a) Registration is closed beginning at 9 p.m. on the 21st day preceding an election until the 11th day after that election.

(b) A voter registration application received when registration is closed shall be accepted and retained by a local board, but the registration of the applicant does not become effective until registration reopens.

(c) A voter registration application that is received by the local board after the close of registration shall be considered timely received for the next election provided:

(1) there is sufficient evidence, as determined by the local board pursuant to regulations adopted by the State Board, that the application was mailed on or before registration was closed for that election; or

(2) the application was submitted by the voter to the Motor Vehicle Administration, a voter registration agency, another local board, or the State Board prior to the close of registration.

3-303.

(a) [Except as provided in subsections (b) and (c) of this section, a] A local board, at the signed request of a registered voter, shall change that voter's party affiliation, or change the voter to or from a decline, at any time that registration is open.

(b) [(1) Except as provided in paragraph (2) of this subsection, party affiliation may not be changed:

(i) from 9 p.m. on the Monday, or the next regular business day if the Monday is a legal holiday, that is 12 weeks before the day on which a primary election is to be held under § 8-201 of this article, until and including the day on which the registration reopens after the primary election is held; and

(ii) from and including the day of issuance of a gubernatorial proclamation calling a special election, pursuant to § 8-710 of this article, or from 5 p.m. on the next regular business day if the day of issuance is a legal holiday, until and including the day on which that special election is held.

(2) If a voter requests a party affiliation change during a period specified in paragraph (1) of this subsection, the local board shall make the change if [IF A LOCAL BOARD RECEIVES A REQUEST FOR A PARTY AFFILIATION CHANGE AFTER THE CLOSE OF REGISTRATION, THE LOCAL BOARD SHALL MAKE THE CHANGE AND IT SHALL BECOME EFFECTIVE FOR THE NEXT ELECTION PROVIDED:

[(i) (1) there is sufficient evidence, as determined by the local boards pursuant to regulations adopted by the State Board, that the request was mailed [before the beginning of the period specified in paragraph (1) of this subsection] ON OR BEFORE THE CLOSE OF REGISTRATION FOR THAT ELECTION; or

[(ii)] (2) the request was submitted by the voter to the Motor Vehicle Administration, a voter registration agency, another local board, or the State Board [before the beginning of the period specified in paragraph (1) of this subsection] **ON OR BEFORE THE CLOSE OF REGISTRATION FOR THAT ELECTION.**

[(c) If a registered voter has moved from one county to another within the State since the last general election, the voter may change party affiliation or change to or from a decline, one time only, during a period specified in subsection (b)(1) of this section.

(d) An individual whose registration has been canceled at the individual's request within a period specified in subsection (b) of this section may not reregister in the same county during the same period with a party affiliation or nonaffiliation different from the previous registration.]

5-703.

(e) (1) A candidate who seeks nomination by petition may not have the candidate's name placed on the general election ballot unless the candidate files with the appropriate board petitions signed by not less than 1% of the total number of registered voters who are eligible to vote for the office for which the nomination by petition is sought, except that the petitions shall be signed by at least 250 registered voters who are eligible to vote for the office.

(2) The petitions shall be filed as required in Title 6 of this article.

(3) The number of registered voters required to satisfy the requirements of paragraph (1) of this section shall be determined as of [the deadline for changing party affiliation before] **JANUARY 1 OF THE YEAR OF** the primary election for which the nomination is sought.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 272

(Senate Bill 305)

AN ACT concerning

**Public Safety – Emergency Medical Services Provider Killed in Performance of Duty – Flag Benefit for Family**

FOR the purpose of requiring the Secretary of State to issue a State flag to the family of a professional or volunteer emergency medical services provider who is killed in the performance of duty; requiring the flag to be presented to the family of the deceased by the State Senator of the legislative district in which the deceased resided or served; and generally relating to emergency medical services providers.

BY repealing and reenacting, without amendments,  
Article – Education  
Section 13–516(a)(6)  
Annotated Code of Maryland  
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
Article – Public Safety  
Section 1–202(a) and (e)  
Annotated Code of Maryland  
(2003 Volume and 2009 Supplement)

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

#### **Article – Education**

13–516.

(a) (6) “Emergency medical services provider” means an individual licensed or certified by the EMS Board as:

- (i) A cardiac rescue technician;
- (ii) An emergency medical dispatcher;
- (iii) An emergency medical technician–basic;
- (iv) An emergency medical technician–paramedic; or
- (v) A first responder.

#### **Article – Public Safety**

1–202.

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

(2) (i) “Child” means a natural or adopted, legitimate or illegitimate child or stepchild of the decedent.

(ii) “Child” includes a child or stepchild born posthumously.

(3) “Correctional officer” has the meaning stated in § 8–201(e)(1) of the Correctional Services Article.

**(4) “EMERGENCY MEDICAL SERVICES PROVIDER” HAS THE MEANING STATED IN § 13–516 OF THE EDUCATION ARTICLE.**

**[(4)] (5)** “Hazardous material” means any substance regulated as a hazardous material under Title 49 of the Code of Federal Regulations.

**[(5)] (6)** “Hazardous material response team employee” means an employee of the Department of the Environment who is on call 24 hours a day to provide emergency response to a discharge of oil or a release of hazardous material or other emergency response activity.

**[(6)] (7)** (i) “Law enforcement officer” has the meaning stated in § 3–101 of this article.

(ii) “Law enforcement officer” includes:

1. an officer who serves in a probationary status; and
2. an officer who serves at the pleasure of the appointing authority of a county or municipal corporation.

**[(7)] (8)** “Performance of duties” includes, in the case of a volunteer or career firefighter, public safety aviation employee, rescue squad member, or hazardous material response team employee:

- (i) actively participating in fighting a fire;
- (ii) going to or from a fire;
- (iii) performing other duties necessary to the operation or maintenance of the fire company;
- (iv) actively participating in the ambulance, advanced life support, or rescue work of an advanced life support unit or a fire, ambulance, or rescue company, including going to or from an emergency or rescue;

(v) providing emergency or rescue assistance, whether acting alone or at the direction of or with a fire, ambulance, or rescue company or advanced life support unit;

(vi) actively participating in flight operations as a crew member in a rotary or fixed wing aircraft; and

(vii) providing emergency response to a discharge of oil or a release of hazardous material or other emergency response activity.

**[(8) (9)]** “Public safety aviation employee” includes a pilot and aviation maintenance technician employed by the State.

**[(9) (10)]** “Stepchild” means a child of the surviving spouse who was living with or dependent for support on the decedent at the time of the decedent’s death.

(e) (1) The Secretary of State shall issue a State flag to the family of a firefighter, policeman, member of the military, **[or]** sworn member of the office of State Fire Marshal, **OR PROFESSIONAL OR VOLUNTEER EMERGENCY MEDICAL SERVICES PROVIDER** who is killed in the performance of duty.

(2) (i) Except when the deceased is a member of the military, the flag shall be presented to the family of the deceased by the State Senator of the legislative district in which the deceased resided or served.

(ii) When the deceased is a member of the military, the flag shall be presented to the family of the deceased by the Department of Veterans Affairs.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 273**

**(Senate Bill 308)**

AN ACT concerning

**Health Occupations – Licensure of Physician Assistants**

FOR the purpose of requiring an individual to be licensed rather than certified by the State Board of Physicians before the individual may practice as a physician assistant; ~~repealing certain language prohibiting a physician assistant from practicing within the scope of certain health occupations;~~ requiring hospitals, related institutions, alternative health care systems and employers to report to the ~~State~~ Board certain changes in the terms of employment of physician assistants; making certain exceptions for alcohol- or drug-impaired physician assistants; authorizing the ~~State~~ Board to impose a certain civil penalty for failure to make a certain report; ~~repealing the Physician Assistant Advisory Committee within the State Board and certain provisions of law relating to the Committee;~~ altering the appointments and qualifications for members of the Physician Assistant Advisory Committee within the Board; authorizing the Board, rather than the Secretary of Health *and Mental Hygiene*, to recommend the removal of certain members of the Committee; authorizing the Executive Director of the Board and certain agents or investigators to enter certain premises under certain circumstances; prohibiting a person from denying or interfering with the entry on premises under certain circumstances; providing for a certain criminal penalty; ~~repealing certain obsolete language; limiting the scope of practice of physician assistants to certain medical acts; repealing~~ altering the authority of the ~~State~~ Board to review and approve certain delegation agreements; requiring physicians to file completed delegation agreements with the ~~State~~ Board in order to supervise physician assistants; ~~authorizing physician assistants to perform certain functions that are delegated by primary or alternate supervising physicians; requiring primary or alternate supervising physicians to provide certain supervision; requiring primary supervising physicians to execute certain delegation agreements and file certain agreements with the State Board; repealing a requirement that certain patients be seen by supervising physicians within a certain number of appointments or days;~~ altering requirements for the content, review, and approval of certain delegation agreements; prohibiting under certain circumstances, the Board from requiring prior approval of delegation agreements that include certain advanced duties if the duties will be performed in certain hospitals or ambulatory surgical facilities; requiring certain prior approval of a delegation agreement if certain advanced duties are to be performed in certain settings or certain anesthesia is to be administered, monitored, or maintained; increasing the number of physician assistants a primary supervising physician may supervise at one time in certain settings; requiring a new delegation agreement to be submitted within a certain period of time under certain circumstances; authorizing certain physicians to delegate certain medical acts to physician assistants under certain circumstances; ~~requiring the State Board to set a certain fee in a certain manner;~~ authorizing physician assistants to practice in accordance with certain delegation agreements; authorizing primary ~~or alternate~~ supervising physicians to delegate dispensing of certain controlled dangerous substances, prescription drugs, or medical devices under certain circumstances; altering certain circumstances when primary ~~or alternate~~ supervising physicians may delegate prescribing and administering of certain controlled dangerous substances, prescription drugs, and medical devices to physician assistants; authorizing

physician assistants to ~~prepare and~~ dispense a sample or starter dosages of certain drugs under certain circumstances; establishing certain qualifications for licensure of physician assistants; making a certain exception; ~~authorizing the State Board to place certain licensees on inactive status;~~ requiring licensees to keep licenses and delegation agreements for inspection at their primary place of business and notify the State Board of certain changes; ~~authorizing the Physician Assistant Rehabilitation Board to request the State Board to direct physician assistants to submit to certain examinations under certain circumstances;~~ establishing a certain administrative penalty for failure to report certain changes; repealing certain language relating to entities with whom the State Board contracts under the Physician Assistant Rehabilitation Program; altering certain provisions relating to the discipline of physician assistants; adding certain grounds for the discipline of physicians; ~~authorizing certain physician assistants to respond to a need for medical care without supervision or with any available supervision under certain emergency circumstances;~~ authorizing certain physician assistants to perform under certain supervision during certain disasters without being required to maintain certain documentation; exempting physicians who supervise physician assistants under certain emergency circumstances from certain requirements; authorizing the State Board to assess a certain civil penalty under certain circumstances; repealing certain definitions; altering certain definitions; making certain stylistic and technical changes; and generally relating to the licensure of physician assistants.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 15-101, ~~15-102~~, 15-103, 15-202, 15-203, 15-205, 15-206, 15-301, 15-302, 15-302.1, 15-302.2, 15-302.3, 15-303, 15-304, ~~15-305~~, 15-306, 15-307, 15-308, 15-309, 15-310, 15-311, 15-312, 15-313, ~~15-314~~, 15-315, 15-401, 15-402, and 15-403

Annotated Code of Maryland  
(2009 Replacement Volume)

BY repealing

Article – Health Occupations

~~Section 15-201, 15-202, 15-203, 15-204, and 15-302.1~~

Section 15-305 and 15-314

Annotated Code of Maryland  
(2009 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 15-102, 15-201, and 15-204

Annotated Code of Maryland  
(2009 Replacement Volume)

BY adding to

Article – Health Occupations

Section ~~15–308.1 and 15–316~~ 15–305, 15–314, 15–316, 15–317, and 15–402.1

Annotated Code of Maryland

(2009 Replacement Volume)

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

**Article – Health Occupations**

15–101.

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

(b) “Alternate supervising physician” means one or more physicians designated by the PRIMARY supervising physician to provide supervision of a physician assistant [during the absence of the supervising physician and] in accordance with the delegation agreement on file with the Board.

**(C) “AMBULATORY SURGICAL FACILITY” MEANS A FACILITY:**

**(1) ACCREDITED BY:**

**(I) THE AMERICAN ASSOCIATION FOR ACCREDITATION OF AMBULATORY SURGICAL FACILITIES;**

**(II) THE ACCREDITATION ASSOCIATION FOR AMBULATORY HEALTH CARE; OR**

**(III) THE JOINT COMMISSION ON THE ACCREDITATION OF HEALTH CARE ORGANIZATIONS; OR**

**(2) CERTIFIED TO PARTICIPATE IN THE MEDICARE PROGRAM, AS ENACTED BY TITLE XVIII OF THE SOCIAL SECURITY ACT.**

~~(D)~~ **(D)** “Board” means the State Board of Physicians, established under § 14–201 of this article.

[(d) “Certificate” means a certificate issued by the Board to a physician assistant under this title.]

(e) “Committee” means the Physician Assistant Advisory Committee.‡

~~[(f)]~~ **(F)** “Controlled dangerous substances” has the meaning stated in § 5–101 of the Criminal Law Article.

~~[(g)] (E)~~ “Correctional facility” includes a State or local correctional facility.

~~[(h)] (F)~~ “Delegated medical acts” means activities that constitute the practice of medicine delegated by a physician under Title 14 of this article.

~~[(i)] (G)~~ “Delegation agreement” means a document that is executed by a **PRIMARY** supervising physician and a physician assistant containing the requirements of ~~[(§ 15–302)] **§§ 15–302 AND 15–302.1**~~ of this title.

[(j)] “Designated pharmacy” means a pharmacy that has an agreement to supply medications for a hospital, public health facility, correctional facility, or detention center if:

(1) The hospital, public health facility, correctional facility, or detention center does not have an on-site pharmacy; or

(2) The on-site pharmacy at the hospital, public health facility, correctional facility, or detention center is closed or does not have a particular medication in stock.]

**[(J)] “DISPENSE” MEANS TO DISPENSE DRUG SAMPLES OR STARTER DOSAGES.**

**[(K)] “DRUG SAMPLE” MEANS A UNIT OF A PRESCRIPTION DRUG THAT IS INTENDED TO PROMOTE THE SALE OF THE DRUG AND IS NOT INTENDED FOR SALE.**

~~[(k)] (H)~~ **[(L)]** “Hospital” means:

(1) A hospital as defined under § 19–301 of the Health – General Article;

(2) A comprehensive care facility that:

(i) Meets the requirements of a hospital-based skilled nursing facility under federal law; **AND**

(ii) Offers acute care in the same building[; and

(iii) Has the same protocols and degree of supervision of physician assistants as it does in its acute care area]; and

(3) An emergency room that is physically connected to a hospital **OR A FREESTANDING MEDICAL FACILITY THAT IS LICENSED UNDER TITLE 19, SUBTITLE ~~3B~~ 3A OF THE HEALTH – GENERAL ARTICLE.**

~~(H)~~ **(M)** “LICENSE” MEANS A LICENSE ISSUED BY THE BOARD TO A PHYSICIAN ASSISTANT UNDER THIS TITLE.

[(1)] ~~(J)~~ **(N)** “National certifying examination” means [an examination offered by a national organization, which certifies physician assistants as having achieved a certain level of training] **THE PHYSICIAN ASSISTANT NATIONAL CERTIFYING EXAMINATION ADMINISTERED BY THE NATIONAL COMMISSION ON CERTIFICATION OF PHYSICIAN ASSISTANTS OR ITS SUCCESSOR.**

[(m)] ~~(K)~~ **(O)** “Physician assistant” means an individual who is [certified] **LICENSED** under this title to [perform delegated medical acts under the supervision of a] **PRACTICE MEDICINE WITH physician SUPERVISION.**

[(n)] ~~(L)~~ **(P)** “Practice as a physician assistant” means the performance of medical acts that are:

(1) Delegated by a ~~PRIMARY OR ALTERNATE~~ supervising physician to a physician assistant;

(2) Within the ~~PRIMARY OR ALTERNATE~~ supervising physician’s scope of practice; and

(3) Appropriate to the physician assistant’s education, training, and experience ~~AS DETERMINED BY THE PRIMARY SUPERVISING PHYSICIAN.~~

[(o)] ~~(M)~~ **(Q)** “Prescriptive authority” means the authority delegated by a **PRIMARY OR ALTERNATE** supervising physician to a physician assistant to [prescribe]:

(1) **PRESCRIBE** and administer controlled dangerous substances, prescription drugs, medical devices, and the oral, written, or electronic ordering of medications; **AND**

(2) **DISPENSE AS PROVIDED UNDER § 15–301.1(C), (D), AND (E) OF THIS TITLE.**

~~(N)~~ **(R)** “PRIMARY SUPERVISING PHYSICIAN” MEANS A PHYSICIAN WHO:

(1) **COMPLETES A DELEGATION AGREEMENT THAT MEETS THE REQUIREMENTS UNDER §§ 15–301(D) AND (E) AND 15–302 OF THIS TITLE AND FILES A COPY WITH THE BOARD;**

(2) **ACTS AS THE PHYSICIAN RESPONSIBLE TO ENSURE THAT A PHYSICIAN ASSISTANT PRACTICES MEDICINE IN ACCORDANCE WITH THIS TITLE AND THE REGULATIONS ADOPTED UNDER THIS TITLE;**

(3) ~~SEEKS TO ENSURE~~ **ENSURES** THAT A PHYSICIAN ASSISTANT PRACTICES WITHIN THE SCOPE OF PRACTICE OF THE PRIMARY SUPERVISING PHYSICIAN OR ANY DESIGNATED ALTERNATE SUPERVISING PHYSICIAN; AND

(4) ~~SEEKS TO ENSURE~~ **ENSURES** THAT A LIST OF ALTERNATE SUPERVISING PHYSICIANS IS MAINTAINED AT THE PRACTICE SETTING.

[(p) “Protocols” means written policies, bylaws, rules, or regulations established by a hospital, public health facility, correctional facility, or detention center that:

(1) Are established in consultation with and with the approval of its medical staff;

(2) Describe the delegated medical acts a physician assistant may execute; and

(3) Specify the minimum requirements for supervision by a physician.]

[(q)] ~~(Q)~~ **(S)** “Public health facility” means a [fixed] site where clinical public health services are rendered under the auspices of the Department, a local health department in a county, or the Baltimore City Health Department.

[(r) “Supervising physician” means a physician who has been approved by the Board to supervise one or more physician assistants.]

**(T) “STARTER DOSAGE” MEANS AN AMOUNT OF A DRUG SUFFICIENT TO BEGIN THERAPY:**

**(1) OF SHORT DURATION OF 72 HOURS OR LESS; OR**

**(2) PRIOR TO OBTAINING A LARGER QUANTITY OF THE DRUG TO COMPLETE THERAPY.**

[(s)] ~~(P)~~ **(U)** (1) “Supervision” means [the responsibility of a physician to exercise on-site supervision or immediately available direction for physician assistants performing delegated medical acts] ~~PHYSICIAN OVERSIGHT OF AND~~

~~ACCEPTANCE OF RESPONSIBILITY FOR THE MEDICAL SERVICES AND CARE RENDERED BY A PHYSICIAN ASSISTANT.~~

(2) "Supervision" ~~includes physician oversight of and acceptance of direct responsibility for the patient services and care rendered by a physician assistant, including continuous availability to the physician assistant in person, through written instructions, or by electronic means and by designation of one or more alternate supervising physicians.~~ ~~DOES NOT REQUIRE THE ON SITE PHYSICAL PRESENCE OF A PRIMARY SUPERVISING PHYSICIAN PROVIDED THAT THE PRIMARY SUPERVISING PHYSICIAN AND THE PHYSICIAN ASSISTANT ARE ABLE TO BE IN CONTACT WITH EACH OTHER BY TELECOMMUNICATION.~~

15-102.

~~(a)~~ (a) A physician assistant may not practice within the scope of practice of any of the following health occupations authorized under this article:

- (1) Nursing;
- (2) Optometry;
- (3) Physical therapy; or
- (4) Psychology.

~~(b)~~ (b) This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

15-103.

(A) IN THIS SECTION, "ALTERNATIVE HEALTH CARE SYSTEM" HAS THE MEANING STATED IN § 1-401 OF THIS ARTICLE.

~~[(a)]~~ (B) An employer of a physician assistant shall report to the Board, on the form prescribed by the Board, any termination of employment of the physician assistant if the cause of termination IS related to a quality of care issue.

(C) EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTIONS (B) AND (D) OF THIS SECTION, A HOSPITAL, A RELATED INSTITUTION, AN ALTERNATIVE HEALTH CARE SYSTEM, OR AN EMPLOYER OF A PHYSICIAN ASSISTANT SHALL REPORT TO THE BOARD, ~~ON THE FORM PRESCRIBED BY THE BOARD,~~ ANY LIMITATION, REDUCTION, OR OTHER CHANGE OF THE TERMS OF EMPLOYMENT OF THE PHYSICIAN ASSISTANT OR ANY TERMINATION OF EMPLOYMENT OF THE PHYSICIAN ASSISTANT FOR ANY REASON THAT MIGHT BE GROUNDS FOR DISCIPLINARY ACTION UNDER § 15-314 OF THIS TITLE.

**(D) A HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER THAT HAS REASON TO KNOW THAT A PHYSICIAN ASSISTANT HAS COMMITTED AN ACTION OR HAS A CONDITION THAT MIGHT BE GROUNDS FOR REPRIMAND OR PROBATION OF THE PHYSICIAN ASSISTANT OR SUSPENSION OR REVOCATION OF THE LICENSE OF THE PHYSICIAN ASSISTANT UNDER § 15-314 OF THIS TITLE BECAUSE THE PHYSICIAN ASSISTANT IS ALCOHOL- OR DRUG-IMPAIRED IS NOT REQUIRED TO REPORT TO THE BOARD IF:**

**(1) THE HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER KNOWS THAT THE PHYSICIAN ASSISTANT IS:**

**(I) IN AN ALCOHOL OR DRUG TREATMENT PROGRAM THAT IS ACCREDITED BY THE JOINT COMMISSION ON THE ACCREDITATION OF HEALTHCARE ORGANIZATIONS OR IS CERTIFIED BY THE DEPARTMENT; OR**

**(II) UNDER THE CARE OF A HEALTH CARE PRACTITIONER WHO IS COMPETENT AND CAPABLE OF DEALING WITH ALCOHOLISM AND DRUG ABUSE;**

**(2) THE HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER IS ABLE TO VERIFY THAT THE PHYSICIAN ASSISTANT REMAINS IN THE TREATMENT PROGRAM UNTIL DISCHARGE; AND**

**(3) THE ACTION OR CONDITION OF THE PHYSICIAN ASSISTANT HAS NOT CAUSED INJURY TO ANY PERSON WHILE THE PHYSICIAN ASSISTANT IS PRACTICING AS A LICENSED PHYSICIAN ASSISTANT.**

**(E) (1) IF THE PHYSICIAN ASSISTANT ENTERS, OR IS CONSIDERING ENTERING, AN ALCOHOL OR DRUG TREATMENT PROGRAM THAT IS ACCREDITED BY THE JOINT COMMISSION ON ACCREDITATION OF HEALTHCARE ORGANIZATIONS OR THAT IS CERTIFIED BY THE DEPARTMENT, THE PHYSICIAN ASSISTANT SHALL NOTIFY THE HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER OF THE PHYSICIAN ASSISTANT'S DECISION TO ENTER THE TREATMENT PROGRAM.**

**(2) IF THE PHYSICIAN ASSISTANT FAILS TO PROVIDE THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, AND THE HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER LEARNS THAT THE PHYSICIAN ASSISTANT HAS ENTERED A TREATMENT PROGRAM, THE HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER SHALL REPORT TO THE BOARD THAT THE PHYSICIAN ASSISTANT**

HAS ENTERED A TREATMENT PROGRAM AND HAS FAILED TO PROVIDE THE REQUIRED NOTICE.

**(3)** IF THE PHYSICIAN ASSISTANT IS FOUND TO BE NONCOMPLIANT WITH THE TREATMENT PROGRAM'S POLICIES AND PROCEDURES WHILE IN THE TREATMENT PROGRAM, THE TREATMENT PROGRAM SHALL NOTIFY THE HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER OF THE PHYSICIAN ASSISTANT'S NONCOMPLIANCE.

**(4)** ON RECEIPT OF THE NOTIFICATION REQUIRED UNDER PARAGRAPH **(3)** OF THIS SUBSECTION, THE HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER OF THE PHYSICIAN ASSISTANT SHALL REPORT THE PHYSICIAN ASSISTANT'S NONCOMPLIANCE TO THE BOARD.

**(F)** A PERSON IS NOT REQUIRED UNDER THIS SECTION TO MAKE ANY REPORT THAT WOULD BE IN VIOLATION OF ANY FEDERAL OR STATE LAW, RULE, OR REGULATION CONCERNING THE CONFIDENTIALITY OF ALCOHOL- AND DRUG-ABUSE PATIENT RECORDS.

**(G)** THE HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER SHALL SUBMIT THE REPORT WITHIN 10 DAYS OF ANY ACTION DESCRIBED IN THIS SECTION.

**(H)** A REPORT UNDER THIS SECTION IS NOT SUBJECT TO SUBPOENA OR DISCOVERY IN ANY CIVIL ACTION OTHER THAN A PROCEEDING ARISING OUT OF A HEARING AND DECISION OF THE BOARD UNDER THIS TITLE.

**(I)** **(1)** THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$1,000 FOR FAILURE TO REPORT UNDER THIS SECTION.

**(2)** THE BOARD SHALL PAY ANY FEES COLLECTED UNDER THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.

**[(b)] (J)** An employer shall make the report required under this section to the Board within 5 days after the date of termination of employment.

**[(c)] (K)** The Board shall adopt regulations to implement the provisions of this section.

‡15-201.

**(a)** There is a Physician Assistant Advisory Committee within the Board.

- (b) The Committee shall function as a subunit of the Board.‡

‡15–202.

- (a) (1) The Committee shall consist of 7 members appointed by the Board.
- (2) Of the 7 Committee members:
- (i) 3 shall be licensed physicians;
- (ii) 3 shall be ~~certified~~ **LICENSED** physician assistants; and
- (iii) 1 shall be a consumer.
- (3) Of the licensed physician members:
- (i) At least 1 shall specialize in general surgery or a surgical subspecialty; ~~and~~
- (ii) At least 1 shall specialize in internal medicine, family practice, or a similar primary care specialty; **AND**
- (III) 1 SHALL BE A BOARD MEMBER.**
- (4) The Board shall:
- (i) ~~Appoint~~ **APPOINT** the physician assistant members from a list of names submitted by:
- ~~1. (I)~~ **(I)** The Maryland Academy of Physician Assistants; and
- ~~2. (II)~~ **(II)** The State institutions of higher education with approved physician assistant programs;
- ~~(ii) Appoint the consumer member selected by the Secretary of the Department of Health and Mental Hygiene; and~~
- ~~(iii) Assign a physician member of the Board to serve as a voting Board representative at all meetings of the Advisory Committee.~~
- (5) The consumer member:
- (i) Shall be a member of the general public;
- (ii) May not be a physician, former physician, physician assistant, or a person in training to become a physician or physician assistant;

(iii) May not have a household member who is a physician or physician assistant, or a person in training to become a physician assistant; and

(iv) May not have had within 2 years before appointment a substantial financial interest in a process regulated by the Board.

(6) Each member of the Committee shall be a resident of the State.

(b) Of the three physician members of the Committee, two shall be previously or currently serving as supervising physicians of a physician assistant under a Board-approved delegation agreement.

(c) **(1)** The physician assistant members shall be ~~certified~~ **LICENSED** as a physician assistant under this title.

~~(d)~~ **(2)** The physician assistant members shall be currently practicing as a physician assistant or employed as a faculty member of an accredited physician assistant program.

**(3) OF THE 3 PHYSICIAN ASSISTANT MEMBERS OF THE COMMITTEE:**

**(I) AT LEAST 1 SHALL BE CURRENTLY PRACTICING IN A HOSPITAL; AND**

**(II) AT LEAST 1 SHALL BE CURRENTLY PRACTICING IN A NONHOSPITAL SETTING.**

~~(D)~~ **(D)** A Committee chairperson and a secretary shall be selected every 2 years by a majority vote of the membership of the Committee.

~~(E)~~ **(E)** The chairperson shall serve in an advisory capacity to the Board as a representative of the Committee.†

†15-203.

(a) The Board shall adopt regulations governing:

- (1) The term of office for Committee members;
- (2) The procedure for filling vacancies on the Committee;
- (3) The removal of Committee members; and
- (4) The duties of each officer.

(b) In addition to the regulations on removal of members adopted by the Board, upon the recommendation of the ~~Secretary~~ **BOARD** the Governor may remove a member whom the ~~Secretary~~ **BOARD** finds to have been absent from 2 successive Committee meetings without adequate reason.†

~~†15–204.~~

Funds for compensation, expenses, and staff for the Committee shall be allocated to the Board in the State budget.†

~~†15–205.† 15–201.~~

(a) ~~†~~In addition to the powers set forth elsewhere in this title, the Committee, on its initiative or on the Board's request, may:

(1) Recommend to the Board regulations for carrying out the provisions of this title;

(2) Recommend to the Board approval, modification, or disapproval of an application for ~~certification~~ **LICENSURE** or a delegation agreement;

(3) Report to the Board any conduct of a supervising physician or a physician assistant that may be cause for disciplinary action under this title or under § 14–404 of this article; and

(4) Report to the Board any alleged unauthorized practice of a physician assistant.

(b) (1)† In addition to the duties set forth elsewhere in this title, the Board shall adopt regulations to carry out the provisions of this title.

~~†(2)~~ The Board shall:

(i) Consider all recommendations of the Committee; and

(ii) Provide a written explanation of the Board's reasons for rejecting or modifying the Committee's recommendations.†

~~†(3)† (B)~~ The Board may:

~~†(i)† (1)~~ Investigate any alleged unauthorized practice of a physician assistant;

~~†(ii)† (2)~~ Investigate any conduct that may be cause for disciplinary action under this title; and

~~{(iii)}~~ ~~(3)~~ On receipt of a written and signed complaint, including a referral from the Commissioner of Labor and Industry, conduct an unannounced inspection of the office of a physician assistant, other than an office of a physician assistant in a hospital, related institution, freestanding medical facility, or [a] freestanding birthing center, to determine compliance at that office with the Centers for Disease [Control's] **CONTROL AND PREVENTION'S** guidelines on universal precautions.

**(4) IF THE ENTRY IS NECESSARY TO CARRY OUT A DUTY UNDER THIS SUBTITLE, INCLUDING AN INVESTIGATION OR DETERMINATION OF COMPLIANCE AS PROVIDED UNDER PARAGRAPH (3) OF THIS SUBSECTION AND AN AUDIT TO DETERMINE COMPLIANCE WITH THE BOARD'S REQUIREMENTS WITH RESPECT TO PHYSICIAN ASSISTANT PRACTICE, THE EXECUTIVE DIRECTOR OF THE BOARD OR OTHER DULY AUTHORIZED AGENT OR INVESTIGATOR MAY ENTER AT ANY REASONABLE HOUR A PLACE OF BUSINESS OF A LICENSED PHYSICIAN OR A LICENSED PHYSICIAN ASSISTANT OR PUBLIC PREMISES.**

**(5) (I) A PERSON MAY NOT DENY OR INTERFERE WITH AN ENTRY UNDER THIS SUBSECTION.**

**(II) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$100.**

~~{15-206.}~~ ~~15-202.~~

(a) The Board shall set reasonable fees for:

(1) The issuance and renewal of [certificates] **LICENSES**; and

(2) The other services rendered by the Board in connection with physician assistants.

(b) (1) The Board shall pay all fees collected under this title to the Comptroller of the State.

(2) (i) If the Governor does not include in the State budget at least \$750,000 for the operation of the Health Personnel Shortage Incentive Grant Program under § 18-803 of the Education Article and the Maryland Loan Assistance Repayment Program for Physicians under Title 18, Subtitle 28 of the Education Article, as administered by the Maryland Higher Education Commission, the Comptroller shall distribute:

1. [Except as provided in subparagraph (ii) of this paragraph,] 12 percent of the fees received from the Board to the Office of Student Financial Assistance to be used as follows:

A. One-half to make grants under the Health Personnel Shortage Incentive Grant Program under § 18–803 of the Education Article; and

B. One-half to make grants under the Maryland Loan Assistance Repayment Program for Physicians under Title 18, Subtitle 28 of the Education Article to physicians engaged in primary care or to medical residents specializing in primary care who agree to practice for at least 2 years as primary care physicians in a geographic area of the State that has been designated by the Secretary of Health and Mental Hygiene as being medically underserved; and

2. The balance of the fees to the Board of Physicians Fund.

(ii) [For fiscal 2008, if the Governor does not include in the State budget the funds specified under subparagraph (i) of this paragraph, the Comptroller shall distribute 14 percent of the fees received from the Board to the Office of Student Financial Assistance to be used as provided under subparagraph (i) of this paragraph.

(iii)] If the Governor includes in the State budget at least \$750,000 for the operation of the Health Personnel Shortage Incentive Grant Program under § 18–803 of the Education Article and the Maryland Loan Assistance Repayment Program for Physicians under Title 18, Subtitle 28 of the Education Article, as administered by the Maryland Higher Education Commission, the Comptroller shall distribute the fees to the Board of Physicians Fund.

15–301.

(a) Nothing in this title may be construed to authorize a physician assistant to practice independent of a **PRIMARY OR ALTERNATE** supervising physician.

(b) A [certificate] **LICENSE** issued to a physician assistant shall limit the physician assistant's scope of practice to medical acts:

(1) Delegated by the **PRIMARY OR ALTERNATE** supervising physician;

(2) Appropriate to the education, training, and experience of the physician assistant ~~AS DETERMINED BY THE PRIMARY SUPERVISING PHYSICIAN;~~

(3) Customary to the practice of the **PRIMARY OR ALTERNATE** supervising physician; and

(4) Consistent with the delegation agreement [submitted to] **FILED WITH** the Board.

~~¶~~(c) Patient services that may be provided by a physician assistant include:

(1) (i) Taking complete, detailed, and accurate patient histories;  
and

(ii) Reviewing patient records to develop comprehensive medical status reports;

(2) Performing physical examinations and recording all pertinent patient data;

(3) Interpreting and evaluating patient data as authorized by the **PRIMARY OR ALTERNATE** supervising physician for the purpose of determining management and treatment of patients;

(4) Initiating requests for or performing diagnostic procedures as indicated by pertinent data and as authorized by the supervising physician;

(5) Providing instructions and guidance regarding medical care matters to patients;

(6) Assisting the **PRIMARY OR ALTERNATE** supervising physician in the delivery of services to patients who require medical care in the home and in health care institutions, including:

(i) Recording patient progress notes;

(ii) Issuing diagnostic orders; and

(iii) Transcribing or executing specific orders at the direction of the supervising physician; and

(7) Exercising prescriptive authority under ~~an approved~~ **A** delegation agreement and in accordance with § 15–302.2 of this subtitle. ~~¶~~

~~¶(d) ¶(c)~~ (1) Except as otherwise provided in this title, an individual shall be [certified] **LICENSED** by the Board before the individual may practice as a physician assistant.

(2) Except as otherwise provided in this title, a physician may not supervise a physician assistant in the performance of delegated medical acts without

[the approval of] FILING A COMPLETED DELEGATION AGREEMENT WITH the Board.

(3) Except as otherwise provided in this title or in a medical emergency, a physician assistant may not perform any medical act for which:

(i) The individual has not been [certified] LICENSED; and

(ii) The medical acts have not been delegated by a PRIMARY OR ALTERNATE supervising physician.

~~(D) (1) A PHYSICIAN ASSISTANT IS AN INDIVIDUAL WHO PRACTICES MEDICINE ONLY WITH PHYSICIAN SUPERVISION.~~

~~(2) A PHYSICIAN ASSISTANT MAY PERFORM THE FUNCTIONS AND RESPONSIBILITIES, INCLUDING ORDERING, PRESCRIBING AND DISPENSING, AND ADMINISTERING DRUGS AND MEDICAL DEVICES, THAT ARE DELEGATED BY A PRIMARY OR ALTERNATE SUPERVISING PHYSICIAN.~~

~~(3) A PHYSICIAN ASSISTANT MAY PERFORM ANY MEDICAL ACT THAT IS DELEGATED BY THE PRIMARY OR ALTERNATE SUPERVISING PHYSICIAN WHEN THE ACT IS WITHIN THE SKILLS OF THE PHYSICIAN ASSISTANT AS DETERMINED BY THE PRIMARY OR ALTERNATE SUPERVISING PHYSICIAN, FORMS A COMPONENT OF THE PRIMARY OR ALTERNATE SUPERVISING PHYSICIAN'S SCOPE OF PRACTICE, AND IS PROVIDED WITH SUPERVISION.~~

~~(E) (1) A PRIMARY OR ALTERNATE SUPERVISING PHYSICIAN SHALL PROVIDE CONTINUOUS SUPERVISION OF A PHYSICIAN ASSISTANT.~~

~~(2) CONTINUOUS SUPERVISION DOES NOT REQUIRE THE PHYSICAL PRESENCE OF THE PRIMARY OR ALTERNATE SUPERVISING PHYSICIAN AT THE TIME AND PLACE THAT THE PATIENT SERVICES AND CARE ARE RENDERED.~~

~~(3) (i) A PRIMARY OR ALTERNATE SUPERVISING PHYSICIAN SHALL ENSURE THAT ALL MEDICAL ACTS TO BE DELEGATED TO A PHYSICIAN ASSISTANT ARE APPROPRIATE TO THE PHYSICIAN ASSISTANT'S EDUCATION, TRAINING, AND LEVEL OF COMPETENCE, AS DETERMINED BY THE PRIMARY SUPERVISING PHYSICIAN.~~

~~(ii) A PHYSICIAN ASSISTANT AND A PRIMARY SUPERVISING PHYSICIAN SHALL:~~

~~1. DEFINE THE RELATIONSHIP OF THE PHYSICIAN ASSISTANT TO THE PRIMARY SUPERVISING PHYSICIAN AND THE ACCESS OF THE PHYSICIAN ASSISTANT TO THE PRIMARY SUPERVISING PHYSICIAN; AND~~

~~2. ESTABLISH A PROCESS TO EVALUATE THE PERFORMANCE OF THE PHYSICIAN ASSISTANT.~~

~~(F) A PRIMARY SUPERVISING PHYSICIAN:~~

~~(1) SHALL BE LICENSED BY THE BOARD TO PRACTICE MEDICINE IN THE STATE;~~

~~(2) MAY NOT BE ENCUMBERED BY ANY RESTRICTION ON THE PHYSICIAN'S LICENSE AS A RESULT OF DISCIPLINARY ACTION BY THE BOARD; AND~~

~~(3) SHALL EXECUTE A DELEGATION AGREEMENT WITH EACH PHYSICIAN ASSISTANT ON THE FORM THAT THE BOARD REQUIRES THAT IS POSTED BY THE BOARD ON ITS WEBSITE OR PROVIDED BY THE BOARD ON WRITTEN REQUEST, STATING THAT THE PHYSICIAN WILL SUPERVISE EACH PHYSICIAN ASSISTANT AND RETAIN PROFESSIONAL RESPONSIBILITY FOR THE CARE RENDERED BY THE PHYSICIAN ASSISTANT.~~

~~(G) A PRIMARY SUPERVISING PHYSICIAN SHALL:~~

~~(1) KEEP A COPY OF EACH DELEGATION AGREEMENT ON FILE AT THE PRACTICE SITE; AND~~

~~(2) FILE A COPY WITH THE BOARD.~~

~~{(e)}~~ ~~(H)~~ A physician assistant is the agent of the PRIMARY OR ALTERNATE supervising physician in the performance of all practice-related activities, including the oral, written, or electronic ordering of diagnostic, therapeutic, and other medical services.

~~{(f)}~~ ~~(I)~~ Except as provided in subsection (g) of this section, the following individuals may practice as a physician assistant without a [certificate] LICENSE:

(1) A physician assistant student ENROLLED in a physician assistant [training] EDUCATIONAL program that is accredited by the [Commission on Allied Health Education Programs] ACCREDITATION REVIEW COMMISSION ON EDUCATION FOR THE PHYSICIAN ASSISTANT OR ITS SUCCESSOR and approved by the Board; or

(2) A physician assistant employed in the service of the federal government while performing duties incident to that employment.

~~[(g)]~~ ~~(j)~~ A physician may not delegate [the authority to write medication orders or the ability to exercise] prescriptive authority to a physician assistant student in a training program [approved by the Board] **THAT IS ACCREDITED BY THE ACCREDITATION REVIEW COMMISSION ON EDUCATION FOR THE PHYSICIAN ASSISTANT OR ITS SUCCESSOR.**

~~[(h)]~~ ~~(k)~~ (1) [Except as prohibited by § 15–102(a) of this title, if] **IF** a [duty] **MEDICAL ACT** that is to be delegated under this section is a part of the practice of a health occupation that is regulated under this article by another board, any rule or regulation concerning that [duty] **MEDICAL ACT** shall be adopted jointly by the **STATE** Board of Physicians and the board that regulates the other health occupation, ~~EXCEPT IF THE PHYSICIAN ASSISTANT PRACTICES THE HEALTH OCCUPATION THAT IS REGULATED UNDER THIS ARTICLE BY ANOTHER BOARD AND THE PHYSICIAN ASSISTANT DOES NOT REPRESENT OR IMPLY TO THE PUBLIC BY USE OF THE TITLE “LICENSED PHYSICIAN ASSISTANT”, BY OTHER TITLE, OR BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES THAT THE PERSON IS LICENSED AS A PHYSICIAN ASSISTANT IN THE STATE.~~

(2) If the two boards cannot agree on a proposed rule or regulation, the proposal shall be submitted to the Secretary for a final decision.

~~[(i)]~~ Notwithstanding the provisions of this section, a patient being treated regularly for a life-threatening, chronic, degenerative, or disabling condition shall be seen initially by the supervising physician and as frequently as the patient’s condition requires, but no less than within every five appointments or within 180 days, whichever occurs first.]

15–302.

(a) [Subject to the provisions of subsection (i) of this section, the Board may authorize a] **A** physician [to] **MAY** delegate medical acts to a physician assistant only after:

(1) A delegation agreement has been executed and [submitted to] **FILED WITH** the [Committee for review to ensure the delegation agreement contains the requirements of this subtitle; and

(2) Except as provided in § 15–302.1 of this subtitle, the Board has reviewed and approved a favorable recommendation by the Committee that the requirements of this subtitle have been met] **BOARD; AND**

**(2) ANY ADVANCED DUTIES HAVE BEEN AUTHORIZED AS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION.**

(b) The delegation agreement shall contain:

(1) A description of the qualifications of the **PRIMARY** supervising physician and physician assistant;

(2) A description of the settings in which the physician assistant will practice;

(3) A description of the continuous physician supervision mechanisms that are reasonable and appropriate to the practice setting;

(4) A description of the delegated medical acts that are within the **PRIMARY OR ALTERNATE** supervising physician's scope of practice and require specialized education or training that is consistent with accepted medical practice;

(5) An attestation that all medical acts to be delegated to the physician assistant are within the scope of practice of the **PRIMARY OR ALTERNATE** supervising physician and appropriate to the physician assistant's education, training, and level of competence ~~AS DETERMINED BY THE PRIMARY OR ALTERNATE SUPERVISING PHYSICIAN;~~

(6) An attestation of continuous supervision of the physician assistant by the **PRIMARY** supervising physician through the mechanisms described in the delegation agreement;

(7) An attestation by the **PRIMARY** supervising physician of the physician's acceptance of responsibility for any care given by the physician assistant;

(8) A description prepared by the **PRIMARY** supervising physician of the process by which the physician assistant's practice is reviewed appropriate to the practice setting and consistent with current standards of acceptable medical practice;

(9) An attestation by the **PRIMARY** supervising physician that the physician will respond in a timely manner when contacted by the physician assistant; and

(10) Any other information deemed necessary by the Board [or Committee] to carry out the provisions of this subtitle.

~~(e) (1) The delegation agreement shall be [submitted] FILED with the application fee established by the Board and the **PRIMARY** supervising physician and physician assistant shall comply with all other requirements established by the Board in accordance with this title.~~

~~(2) The Board shall set the application fee so as to produce funds to approximate the cost of [reviewing and approving] RECEIVING delegation agreements FILED WITH THE BOARD and any other related services provided.~~

**(C) (1) THE BOARD MAY NOT REQUIRE PRIOR APPROVAL OF A DELEGATION AGREEMENT THAT INCLUDES ADVANCED DUTIES, IF AN ADVANCED DUTY WILL BE PERFORMED IN A HOSPITAL OR AMBULATORY SURGICAL FACILITY, PROVIDED THAT:**

**(I) A PHYSICIAN, WITH CREDENTIALS THAT HAVE BEEN REVIEWED BY THE HOSPITAL OR AMBULATORY SURGICAL FACILITY AS A CONDITION OF EMPLOYMENT, AS AN INDEPENDENT CONTRACTOR, OR AS A MEMBER OF THE MEDICAL STAFF, SUPERVISES THE PHYSICIAN ASSISTANT;**

**(II) THE PHYSICIAN ASSISTANT HAS CREDENTIALS THAT HAVE BEEN REVIEWED BY THE HOSPITAL OR AMBULATORY SURGICAL FACILITY AS A CONDITION OF EMPLOYMENT, AS AN INDEPENDENT CONTRACTOR, OR AS A MEMBER OF THE MEDICAL STAFF; AND**

**(III) EACH ADVANCED DUTY TO BE DELEGATED TO THE PHYSICIAN ASSISTANT IS REVIEWED AND APPROVED WITHIN A PROCESS APPROVED BY THE GOVERNING BODY OF THE HEALTH CARE FACILITY BEFORE THE PHYSICIAN ASSISTANT PERFORMS THE ADVANCED DUTIES.**

**(2) IN ANY SETTING THAT DOES NOT MEET THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION, A PRIMARY SUPERVISING PHYSICIAN SHALL OBTAIN THE BOARD'S APPROVAL OF A DELEGATION AGREEMENT THAT INCLUDES ADVANCED DUTIES, BEFORE THE PHYSICIAN ASSISTANT PERFORMS THE ADVANCED DUTIES.**

**(3) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, A PRIMARY SUPERVISING PHYSICIAN SHALL OBTAIN THE BOARD'S APPROVAL OF A DELEGATION AGREEMENT BEFORE THE PHYSICIAN ASSISTANT MAY ADMINISTER, MONITOR, OR MAINTAIN GENERAL ANESTHESIA OR NEUROAXIAL ANESTHESIA, INCLUDING SPINAL AND EPIDURAL TECHNIQUES, UNDER THE AGREEMENT.**

~~†(d) The~~ **FOR A DELEGATION AGREEMENT CONTAINING ADVANCED DUTIES THAT REQUIRE BOARD APPROVAL, THE** Committee shall review the delegation agreement and recommend to the Board that the delegation agreement be approved, rejected, or modified to ensure conformance with the requirements of this title.

(e) The Committee may conduct a personal interview of the PRIMARY supervising physician and the physician assistant.

(f) ~~(1)~~ **(1)** On review of the Committee's recommendation regarding a PRIMARY supervising physician's request to delegate ~~medical acts~~ ADVANCED DUTIES as described in a delegation agreement, the Board:

~~(i)~~ **(I)** May approve the delegation agreement; or

~~(ii)~~ **(II)** ~~(i)~~ **1.** If the physician assistant does not meet the applicable education, training, and experience requirements to perform the specified delegated acts, may modify or disapprove the delegation agreement; and

~~(iii)~~ **2.** If the Board takes an action under item (i) of this item:

~~(i)~~ **A.** Shall notify the PRIMARY supervising physician and the physician assistant in writing of the particular elements of the proposed delegation agreement that were the cause for the modification or disapproval; and

~~(ii)~~ **B.** May not restrict the submission of an amendment to the delegation agreement.†

**(2) TO THE EXTENT PRACTICABLE, THE BOARD SHALL APPROVE A DELEGATION AGREEMENT OR TAKE OTHER ACTION AUTHORIZED UNDER THIS SUBSECTION WITHIN 90 DAYS AFTER RECEIVING A COMPLETED DELEGATION AGREEMENT INCLUDING ANY INFORMATION FROM THE PHYSICIAN ASSISTANT AND PRIMARY SUPERVISING PHYSICIAN NECESSARY TO APPROVE OR TAKE ACTION.**

~~[(g)] (D)~~ If the Board determines that a PRIMARY OR ALTERNATE supervising physician or physician assistant is practicing in a manner inconsistent with the requirements of this title or Title 14 of this article, the Board ~~[on its own initiative or on the recommendation of the Committee]~~ may demand modification of the practice~~],~~ withdraw the approval of the delegation agreement,~~]~~ or take other disciplinary action under § 14-404 or § 15-314 of this article.

[(h) (1) A delegation agreement approved under this subtitle may be reviewed as a component of the certificate renewal process established under § 15-307 of this subtitle.

(2) A delegation agreement shall expire when a physician assistant's certificate expires.

(i) The Board may not authorize a physician to delegate medical acts under a delegation agreement to more than two physician assistants at any one time, except in a hospital or in the following nonhospital settings:

- (1) A correctional facility;
- (2) A detention center; or
- (3) A public health facility.]

**(H) A PRIMARY SUPERVISING PHYSICIAN MAY NOT DELEGATE MEDICAL ACTS UNDER A DELEGATION AGREEMENT TO MORE THAN FOUR PHYSICIAN ASSISTANTS AT ANY ONE TIME, EXCEPT IN A HOSPITAL OR IN THE FOLLOWING NONHOSPITAL SETTINGS:**

- (1) A CORRECTIONAL FACILITY;**
- (2) A DETENTION CENTER; OR**
- (3) A PUBLIC HEALTH FACILITY.**

~~[(j)]~~ **(I)** A person may not coerce another person to enter into a delegation agreement under this subtitle.

~~[(k)]~~ **(J)** A physician may supervise a physician assistant:

(1) ~~[(k)]~~ **AS A PRIMARY SUPERVISING PHYSICIAN IN** accordance with a delegation agreement approved by the Board under this subtitle; or

(2) As an alternate supervising physician if:

(i) The alternate supervising physician supervises in accordance with a delegation agreement filed with the Board;

(ii) The alternate supervising physician supervises no more than four physician assistants at any one time, except in a hospital, correctional facility, detention center, or public health facility;

(iii) The alternate supervising physician's period of supervision, in the absence of the primary supervising physician, does not exceed:

1. The period of time specified in the delegation agreement; and
2. A period of 45 consecutive days at any one time; and

(iv) The physician assistant performs only those medical acts that:

1. Have been delegated under the delegation agreement filed with the Board; and
2. Are within the scope of practice of the PRIMARY SUPERVISING PHYSICIAN AND alternate supervising physician.

**(K) IN THE EVENT OF A SUDDEN DEPARTURE, INCAPACITY, OR DEATH OF A PRIMARY SUPERVISING PHYSICIAN, A DESIGNATED ALTERNATE SUPERVISING PHYSICIAN MAY ASSUME THE ROLE OF THE PRIMARY SUPERVISING PHYSICIAN BY SUBMITTING A NEW DELEGATION AGREEMENT TO THE BOARD WITHIN 15 DAYS.**

(l) Individual members of the Board are not civilly liable for actions regarding the approval, modification, or disapproval of a delegation agreement described in this section.†

~~(F)~~ **(M) A PHYSICIAN ASSISTANT MAY PRACTICE IN ACCORDANCE WITH A DELEGATION AGREEMENT FILED WITH THE BOARD UNDER THIS SUBTITLE.**

‡15-302.1.

**(A) IF A DELEGATION AGREEMENT DOES NOT INCLUDE ADVANCED DUTIES OR THE ADVANCED DUTIES HAVE BEEN APPROVED UNDER § 15-302(C)(1) OF THIS SUBTITLE, A PHYSICIAN ASSISTANT MAY ASSUME THE DUTIES UNDER A DELEGATION AGREEMENT ON THE DATE OF RECEIPT BY THE BOARD OF THE DELEGATION AGREEMENT.**

~~(a)~~ **(B)** In this section, “pending” means that a delegation agreement **THAT INCLUDES DELEGATION OF ADVANCED DUTIES IN A SETTING THAT DOES NOT MEET THE REQUIREMENTS UNDER § 15-302(C)(1) OF THIS SUBTITLE** has been executed and submitted to the ~~Committee for review~~ **BOARD FOR ITS APPROVAL**, but:

- (1) The Committee has not made a recommendation to the Board; or
- (2) The Board has not made a final decision regarding the delegation agreement.

~~(b)~~ **(C)** Subject to subsection ~~(e)~~ **(D)** of this section, if a delegation agreement is pending, on receipt of a temporary practice letter from the staff of the

Board, a physician assistant may ~~practice in accordance with the pending delegation agreement~~ **PERFORM THE ADVANCED DUTY** if:

(1) The **PRIMARY** supervising physician has been previously approved to supervise one or more physician assistants in the ~~proposed practice setting for the same scope of practice~~ **PERFORMANCE OF THE ADVANCED DUTY**; and

(2) The physician assistant has been previously approved ~~for the same scope of practice in a different practice setting~~ **BY THE BOARD TO PERFORM THE ADVANCED DUTY**.

~~(D)~~ **(D)** If the Committee recommends a denial of the pending delegation agreement or the Board denies the pending delegation agreement, on notice to the **PRIMARY SUPERVISING** physician and the physician assistant, the physician assistant may no longer ~~practice in accordance with the delegation agreement~~ **PERFORM THE ADVANCED DUTY THAT HAS NOT RECEIVED THE APPROVAL OF THE BOARD.**‡

**(E) THE BOARD MAY DISAPPROVE ANY DELEGATION AGREEMENT IF IT BELIEVES THAT:**

**(1) THE AGREEMENT DOES NOT MEET THE REQUIREMENTS OF THIS SUBTITLE; OR**

**(2) THE PHYSICIAN ASSISTANT IS UNABLE TO PERFORM SAFELY THE DELEGATED DUTIES.**

**(F) IF THE BOARD DISAPPROVES A DELEGATION AGREEMENT OR THE DELEGATION OF ANY FUNCTION UNDER AN AGREEMENT, THE BOARD SHALL PROVIDE THE PRIMARY SUPERVISING PHYSICIAN AND THE PHYSICIAN ASSISTANT WITH WRITTEN NOTICE OF THE DISAPPROVAL.**

**(G) A PHYSICIAN ASSISTANT WHO RECEIVES NOTICE THAT THE BOARD HAS DISAPPROVED A DELEGATION AGREEMENT OR AN ADVANCED FUNCTION UNDER THE DELEGATION AGREEMENT SHALL IMMEDIATELY CEASE TO PRACTICE UNDER THE AGREEMENT OR TO PERFORM THE DISAPPROVED FUNCTION.**

~~{15-302.2.} 15-302.1.~~

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

~~(2) "PERSONALLY PREPARE AND DISPENSE" MEANS THAT A PHYSICIAN ASSISTANT:~~

~~(I) IS PHYSICALLY PRESENT ON THE PREMISES WHERE THE PRESCRIPTION IS FILLED; AND~~

~~(II) PERFORMS A FINAL CHECK OF THE PRESCRIPTION BEFORE IT IS PROVIDED TO THE PATIENT.~~

~~(3) "STARTER DOSAGE" MEANS AN AMOUNT OF A DRUG SUFFICIENT TO BEGIN THERAPY:~~

~~(I) OF SHORT DURATION OF 72 HOURS OR LESS; OR~~

~~(II) PRIOR TO OBTAINING A LARGER QUANTITY OF THE DRUG TO COMPLETE THERAPY.~~

~~(a)~~ ~~(B)~~ A PRIMARY supervising physician may not delegate prescribing, DISPENSING, and administering of controlled dangerous substances, prescription drugs, or medical devices unless the PRIMARY supervising physician and physician assistant include in the delegation agreement:

(1) A notice of intent to delegate prescribing of controlled dangerous substances, prescription drugs, or medical devices;

(2) An attestation that all prescribing activities of the physician assistant will comply with applicable federal and State regulations;

(3) An attestation that all medical charts or records will contain a notation of any prescriptions written by a physician assistant in accordance with this section; ~~AND~~

(4) An attestation that all prescriptions written under this section will include the physician assistant's name and the supervising physician's name, business address, and business telephone number legibly written or printed;

(5) ~~Evidence demonstrating~~ AN ATTESTATION THAT THE PHYSICIAN ASSISTANT HAS:

(i) ~~Passage of~~ PASSED the physician assistant national certification exam administered by the National Commission on the Certification of Physician Assistants within the previous 2 years; or

(ii) ~~Successful completion of~~ SUCCESSFULLY COMPLETED 8 category 1 hours of pharmacology education within the previous 2 years; and

(6) ~~Evidence demonstrating~~ AN ATTESTATION THAT THE PHYSICIAN ASSISTANT HAS:

- (i) A bachelor's degree or its equivalent; OR
- (ii) SUCCESSFULLY COMPLETED 2 years of work experience as a physician assistant;~~or~~
- ~~(iii) Prior approval by the Board of a delegation agreement, including approval for writing medication orders].~~

~~[(b)] (c)~~ (1) A PRIMARY OR ALTERNATE supervising physician may not delegate the prescribing of substances that are identified as Schedule I controlled dangerous substances under § 5-402 of the Criminal Law Article.

(2) A PRIMARY OR ALTERNATE SUPERVISING PHYSICIAN MAY DELEGATE THE PRESCRIBING OF SUBSTANCES THAT ARE IDENTIFIED AS SCHEDULES II THROUGH V CONTROLLED DANGEROUS SUBSTANCES UNDER § 5-402 OF THE CRIMINAL LAW ARTICLE, INCLUDING LEGEND DRUGS AS DEFINED UNDER § 503(B) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

~~[(2)] (3)~~ A PRIMARY OR ALTERNATE supervising physician may not delegate the prescribing of controlled dangerous substances to a physician assistant unless the physician assistant has a valid:

- (i) State controlled dangerous substance registration; and
- (ii) Federal Drug Enforcement Agency (DEA) registration.

~~(D) (C)~~ A PHYSICIAN ASSISTANT PERSONALLY MAY ~~PREPARE AND DISPENSE A STARTER DOSAGE OR DISPENSE DRUG SAMPLES~~ OF ANY DRUG THE PHYSICIAN ASSISTANT IS AUTHORIZED TO PRESCRIBE TO A PATIENT OF THE PHYSICIAN ASSISTANT IF:

(1) ~~(I) PHARMACY SERVICES ARE NOT REASONABLY AVAILABLE;~~

~~(II) IT IS IN THE BEST INTERESTS OF THE PATIENT; OR~~

~~(III) IT IS AN EMERGENCY;~~

~~(2)~~ THE STARTER DOSAGE OR DRUG SAMPLE COMPLIES WITH THE LABELING REQUIREMENTS OF ~~§ 12-509~~ § 12-505 OF THIS ARTICLE;

~~(3)~~ (2) NO CHARGE IS MADE FOR THE STARTER DOSAGE; AND

~~(4)~~ (3) THE PHYSICIAN ASSISTANT ENTERS AN APPROPRIATE RECORD IN THE PATIENT'S MEDICAL RECORD.

~~(E)~~ (D) A PHYSICIAN ASSISTANT WHO PERSONALLY ~~PREPARES AND~~ DISPENSES A DRUG SAMPLE OR STARTER DOSAGE IN THE COURSE OF TREATING A PATIENT AS AUTHORIZED UNDER SUBSECTION ~~(B)~~ (C) OF THIS SECTION SHALL COMPLY WITH THE REQUIREMENTS UNDER TITLES 12 AND 14 OF THIS ARTICLE AND APPLICABLE FEDERAL LAW AND REGULATIONS.

~~(F)~~ (E) BEFORE A PHYSICIAN ASSISTANT MAY RENEW A LICENSE FOR AN ADDITIONAL 2-YEAR TERM UNDER § 15-307 OF THIS SUBTITLE, THE PHYSICIAN ASSISTANT SHALL SUBMIT EVIDENCE TO THE BOARD OF SUCCESSFUL COMPLETION OF 8 CATEGORY 1 HOURS OF PHARMACOLOGY EDUCATION WITHIN THE PREVIOUS 2 YEARS.

15-302.3.

(a) On a quarterly basis, the Board shall provide to the Board of Pharmacy a list of physician assistants whose delegation agreements include the delegation of [authority to exercise] prescriptive authority.

(b) The list required under subsection (a) of this section shall specify whether each physician assistant has been delegated the authority to prescribe controlled dangerous substances, prescription drugs, or medical devices.

(c) If a PRIMARY supervising physician who has delegated authority to exercise prescriptive authority to a physician assistant subsequently restricts or removes the delegation, the PRIMARY supervising physician shall notify the Board of the restriction or removal within 5 business days.

15-303.

(a) To qualify for a [certificate] LICENSE, an applicant shall ~~be~~:

(1) ~~Of~~ BE OF good moral character;

(2) ~~Fluent in the English language~~ DEMONSTRATE ORAL AND WRITTEN COMPETENCY IN THE ENGLISH LANGUAGE AS REQUIRED BY THE BOARD;

(3) ~~At~~ BE AT least 18 years old; and

(4) ~~(I) A BE A~~ graduate of a physician assistant ~~{training}~~ ~~EDUCATIONAL~~ program ~~{approved by the Board}~~ ~~ACCREDITED BY THE ACCREDITATION REVIEW COMMISSION ON EDUCATION FOR THE PHYSICIAN ASSISTANT OR, ON OR BEFORE DECEMBER 31, 2000, ACCREDITED BY THE COMMITTEE ON ALLIED HEALTH EDUCATION AND ACCREDITATION OR THE COMMISSION ON ACCREDITATION OF ALLIED HEALTH EDUCATION PROGRAMS;~~ OR

(II) HAVE PASSED THE PHYSICIAN ASSISTANT NATIONAL CERTIFYING EXAMINATION ADMINISTERED BY THE NATIONAL COMMISSION ON CERTIFICATION OF PHYSICIAN ASSISTANTS PRIOR TO 1986, MAINTAINED ALL CONTINUING EDUCATION AND RECERTIFICATION REQUIREMENTS, AND BEEN IN CONTINUOUS PRACTICE SINCE PASSAGE OF THE EXAMINATION.

(b) ~~{Except as otherwise provided in this title, the}~~ ~~THE~~ applicant shall pass ~~{a national certifying examination approved by the Board}~~ ~~THE PHYSICIAN ASSISTANT NATIONAL CERTIFYING EXAMINATION ADMINISTERED BY THE NATIONAL COMMISSION ON CERTIFICATION OF PHYSICIAN ASSISTANTS.~~

(c) An applicant who graduates from a physician assistant training program after October 1, 2003 shall have a bachelor's degree or its equivalent.

[(d) The Board shall adopt regulations governing the issuance of temporary certificates to applicants who:

- (1) Have met all other requirements of this section; but
- (2) Have not yet passed the national certifying examination.]

~~(D) THE BOARD MAY GRANT A LICENSE TO AN APPLICANT WHO DOES NOT MEET THE EDUCATIONAL REQUIREMENTS OF SUBSECTION (A)(4) OF THIS SECTION BUT WHO PASSED THE PHYSICIAN ASSISTANT NATIONAL NATIONAL CERTIFYING EXAMINATION ADMINISTERED BY THE NATIONAL COMMISSION ON CERTIFICATION OF PHYSICIAN ASSISTANTS BEFORE 1986 AND HAS COMPLETED ALL CONTINUING EDUCATION AND RENEWAL OF CERTIFICATION REQUIREMENTS.~~

15-304.

An applicant for a [certificate] LICENSE shall:

- (1) Submit an application to the Board on the form that the Board requires; and
- (2) Pay to the Board the application fee set by the Board.

~~15-305.~~

~~(a) If an applicant qualifies for a [certificate] LICENSE under this subtitle, the Board shall send the applicant a notice that specifies that:~~

~~(1) The applicant has qualified for a [certificate] LICENSE; and~~

~~(2) On receipt of the [certificate] LICENSE fee set by the Board, the Board will issue a [certificate] LICENSE to the applicant.~~

~~(b) On payment of the [certificate] LICENSE fee, the Board shall issue a [certificate] LICENSE to any applicant who meets the requirements of this subtitle.~~

~~(c) The Board shall include on each [certificate] LICENSE that the Board issues:~~

~~(1) The full name of the [certificate holder] LICENSEE;~~

~~(2) A serial number assigned by the Board to the [certificate holder] LICENSEE; and~~

~~(3) The signature of the Secretary under seal of the Board.~~

**15-305.**

**THE BOARD SHALL ISSUE A LICENSE TO AN APPLICANT WHO MEETS THE REQUIREMENTS OF THIS TITLE.**

15-306.

A [certificate] LICENSE authorizes the [certificate holder] LICENSEE to practice as a physician assistant UNDER A DELEGATION AGREEMENT while the [certificate] LICENSE is effective.

15-307.

(a) (1) Unless a [certificate] LICENSE is renewed for an additional term as provided in this section, the [certificate] LICENSE expires on the date set by the Board.

(2) A [certificate] LICENSE may not be renewed for a term longer than 2 years.

(b) At least 1 month before a [certificate] LICENSE expires, the Board shall send to the [certificate holder] LICENSEE, by first-class mail to the last known address of the [certificate holder] LICENSEE, a renewal notice that states:

(1) The date on which the current [certificate] LICENSE expires;

(2) The date by which the Board must receive the renewal application for the renewal to be issued and mailed before the [certificate] LICENSE expires; and

(3) The amount of the renewal fee.

(c) Before a [certificate] LICENSE expires, the [certificate holder] LICENSEE periodically may renew it for an additional 2-year term, if the [certificate holder] LICENSEE:

(1) Is otherwise entitled to be issued a [certificate] LICENSE;

(2) Pays to the Board the renewal fee, set by the Board; ~~and~~

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires;  
and

(ii) Satisfactory evidence of compliance with the continuing education requirements for [certificate] LICENSE renewal set by the Board under this section; **AND**

**(4) MEETS ANY ADDITIONAL REQUIREMENTS SET BY THE BOARD FOR RENEWAL OF A LICENSE.**

(d) [(1)] In addition to any other qualifications and requirements established by the Board, the Board shall establish continuing education requirements as a condition for the renewal of [certificates] LICENSES under this section.

[(2)] In establishing the continuing education requirements under paragraph (1) of this subsection, the Board shall include a requirement for a course on the special care needs of terminally ill individuals and their families which shall include topics related to:

(i) Pain and symptom management;

(ii) The psycho-social dynamics of death;

(iii) Dying and bereavement; and

(iv) Hospice care.]

(e) The Board shall renew the [certificate] LICENSE of each [certificate holder] LICENSEE who meets the requirements of this section.

**(F) FOR THE FAILURE OF A LICENSEE TO OBTAIN CONTINUING MEDICAL EDUCATION CREDITS AS REQUIRED BY THE BOARD, THE BOARD MAY IMPOSE A CIVIL PENALTY NOT TO EXCEED \$100 FOR EACH MEDICAL EDUCATION CREDIT NOT OBTAINED BY THE LICENSEE.**

15-308.

The Board, in accordance with its regulations, shall reinstate the [certificate] LICENSE of a physician assistant who has failed to renew the [certificate] LICENSE for any reason if the physician assistant:

- (1) Meets the renewal requirements of § 15-307 of this subtitle;
- (2) Pays to the Board the reinstatement fee set by the Board; ~~and~~
- (3) Submits to the Board satisfactory evidence of compliance with the qualifications and requirements established under this subtitle for [certificate] LICENSE reinstatements; **AND**

**(4) MEETS ANY ADDITIONAL REQUIREMENTS SET BY THE BOARD FOR REINSTATEMENT.**

~~15-308.1.~~

~~(A) THE BOARD MAY PLACE A LICENSEE ON INACTIVE STATUS, IF THE LICENSEE SUBMITS TO THE BOARD:~~

~~(1) AN APPLICATION FOR INACTIVE STATUS ON THE FORM REQUIRED BY THE BOARD; AND~~

~~(2) THE INACTIVE STATUS FEE SET BY THE BOARD.~~

~~(B) THE BOARD SHALL ISSUE A LICENSE TO AN INDIVIDUAL WHO IS ON INACTIVE STATUS IF THE INDIVIDUAL:~~

~~(1) SUBMITS TO THE BOARD:~~

~~(i) SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE CONTINUING EDUCATION REQUIREMENTS THE BOARD ADOPTS FOR THIS PURPOSE; AND~~

~~(H) A REINSTATEMENT FEE SET BY THE BOARD; AND~~

~~(2) IS OTHERWISE ENTITLED TO BE LICENSED.~~

15-309.

(a) Each [certificate holder] LICENSEE shall [produce] KEEP a [valid certificate and delegation agreement when requested to do so by an existing or potential employer or client] LICENSE AND DELEGATION AGREEMENT FOR INSPECTION AT THE PRIMARY PLACE OF BUSINESS OF THE LICENSEE.

(b) **(1)** Each [certificate holder] LICENSEE shall give the Board written notice of any change of NAME OR address **WITHIN 60 DAYS OF THE DATE OF THE CHANGE.**

**(2) A LICENSEE WHO FAILS TO COMPLY WITH THIS SUBSECTION IS SUBJECT TO AN ADMINISTRATIVE PENALTY OF \$100.**

15-310.

(a) In reviewing an application for [certification] LICENSURE or in investigating an allegation brought under § 15-314 of this subtitle, the ~~{Committee}~~ ~~PHYSICIAN ASSISTANT REHABILITATION PROGRAM~~ may request the Board to direct, or the Board on its own initiative may direct the physician assistant to submit to an appropriate examination.

(b) In return for the privilege given to the physician assistant to perform delegated medical acts in the State, the physician assistant is deemed to have:

(1) Consented to submit to an examination under this section, if requested by the Board in writing; and

(2) Waived any claim of privilege as to the testimony or examination reports.

(c) The unreasonable failure or refusal of the LICENSED physician assistant OR APPLICANT to submit to an examination is [grounds] **PRIMA FACIE EVIDENCE OF THE LICENSED PHYSICIAN ASSISTANT'S INABILITY TO PERFORM DELEGATED MEDICAL ACTS AND IS CAUSE** for denial of the application or immediate suspension of the [certification] LICENSE, ~~UNLESS THE BOARD FINDS THAT THE FAILURE OR REFUSAL WAS BEYOND THE CONTROL OF THE LICENSED PHYSICIAN ASSISTANT.~~

(d) The Board shall pay the costs of any examination made under this section.

(e) [(1) (i)] The Board shall assess each applicant for a [certificate] LICENSE or the renewal of a [certificate] LICENSE to practice as a physician assistant, a fee set by the Board[.

(ii) The fee shall be] sufficient to fund the activities of the [entity or entities with whom the Board contracts under § 14-401(e)] BOARD'S REHABILITATION PROGRAM UNDER § 14-401(G) of this article in conducting a physician assistant rehabilitation program.

[(iii) The fee shall be set by the Secretary each year after the submission by the entity or entities with whom the Board contracts under § 14-401(e) of this article to the Board of the annual budget for the Physician Assistant Rehabilitation Program.

(2) As provided under § 2-1220 of the State Government Article, the Legislative Auditor, every 2 years, shall audit the accounts and transactions of the entity or entities with whom the Board contracts under § 14-401(e) of this article in conducting the Physician Assistant Rehabilitation Program.]

15-311.

Subject to the hearing provisions of § 15-313 of this subtitle, the Board, on the affirmative vote of a majority of ~~its members then serving~~ A QUORUM, may deny a [certificate] LICENSE to any applicant for:

~~(1) Failure to meet the qualifications for [certification] LICENSE;~~  
or

~~(2) Any~~ ANY of the reasons that are grounds for disciplinary action under § 15-314 of this subtitle.

15-312.

(a) Unless the Board agrees to accept the surrender of a [certification] LICENSE of A physician assistant, the physician assistant may not surrender the [certification] LICENSE nor may the [certification] LICENSE lapse by operation of law while the physician assistant is under investigation or while charges are pending.

(b) The Board may set conditions on its agreement to accept surrender of a [certification] LICENSE.

15-313.

(a) (1) Except as otherwise provided under § 10–226 of the State Government Article, before the Board takes any action to deny a [certificate or to reject or modify a delegation agreement] LICENSE OR TO REJECT OR MODIFY A DELEGATION AGREEMENT OR ADVANCED DUTY, the Board shall give the applicant or [certificate holder] LICENSEE the opportunity for a hearing before the Board.

(2) The Board shall give notice and hold the hearing under Title 10, Subtitle 2 of the State Government Article.

(3) The Board may administer oaths in connection with any proceeding under this section.

(4) At least 14 days before the hearing, the hearing notice shall be sent to the last known address of the applicant or [certificate holder] LICENSEE.

(b) Any applicant aggrieved under this subtitle by a final decision of the Board denying a [certificate or denying or modifying a delegation agreement] LICENSE OR REJECTING OR MODIFYING A DELEGATION AGREEMENT OR ADVANCED DUTY may:

(1) Appeal that decision to the Board of Review; and

(2) Then take any further appeal allowed under Title 10, Subtitle 2 of the State Government Article.

~~15–314.~~

~~Subject to the hearing provisions of § 15–315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may reprimand any [certificate holder] LICENSEE, LIMIT OR OTHERWISE RESTRICT A LICENSE, IMPOSE CORRECTIVE MEASURES ON A LICENSEE, or suspend or revoke a [certificate] LICENSE if the [certificate holder] LICENSEE:~~

~~(1) Fraudulently or deceptively obtains or attempts to obtain a [certificate] LICENSE for the applicant or [certificate holder] LICENSEE or for another individual;~~

~~(2) Fraudulently or deceptively uses a [certificate] LICENSE;~~

~~(3) Violates any provision of this title or any regulations adopted under this title [or], commits any act which could serve as the basis for disciplinary action against a [physician] PERSON WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED TO PRACTICE A HEALTH OCCUPATION under [§ 14–404 of] this article, OR A STIPULATION OR AGREEMENT OF THE BOARD;~~

- ~~(4) [Performs delegated medical acts beyond the scope of the certificate not within a delegation agreement approved by the Board;~~
- ~~(5)] Performs delegated medical acts without the supervision of a physician;~~
- ~~(5) IS CONVICTED OF A FELONY;~~
- ~~(6) IS HABITUALLY INTOXICATED;~~
- ~~(7) IS ADDICTED TO, OR HABITUALLY ABUSES, ANY NARCOTIC OR CONTROLLED DANGEROUS SUBSTANCE, AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE, OR OTHER DRUG THAT IS IN EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL INDICATION;~~
- ~~(8) HAS BEEN ADJUDICATED AS MENTALLY INCOMPETENT;~~
- ~~(9) IS PHYSICALLY OR MENTALLY UNABLE TO ENGAGE SAFELY IN PRACTICE AS A PHYSICIAN ASSISTANT;~~
- ~~(10) DEMONSTRATES PROFESSIONAL INCOMPETENCE;~~
- ~~(11) VIOLATES PATIENT CONFIDENTIALITY, EXCEPT AS OTHERWISE REQUIRED OR PERMITTED BY LAW;~~
- ~~(12) ENGAGES IN CONDUCT INTENDED TO OR WITH A SUBSTANTIAL LIKELIHOOD TO DECEIVE, DEFRAUD, OR HARM THE PUBLIC;~~
- ~~(13) ENGAGES IN UNPROFESSIONAL OR IMMORAL CONDUCT IN THE PRACTICE OF MEDICINE;~~
- ~~(14) PRESCRIBES, SELLS, ADMINISTERS, DISTRIBUTES, ORDERS, OR GIVES AWAY ANY DRUG CLASSIFIED AS A CONTROLLED DANGEROUS SUBSTANCE FOR OTHER THAN MEDICALLY ACCEPTED THERAPEUTIC PURPOSES;~~
- ~~(15) HAS COMMITTED AN ACT OF MORAL TURPITUDE;~~
- ~~(16) IS DISCIPLINED BY A LICENSING OR DISCIPLINARY AUTHORITY OF ANY STATE OR COUNTRY FOR AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THIS SECTION;~~
- ~~(17) FAILS TO COOPERATE WITH AN INVESTIGATION CONDUCTED BY THE BOARD;~~
- ~~(18) REPRESENTS THAT THE PERSON IS A PHYSICIAN;~~

~~[(6)] (19) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the [certificate holder] LICENSEE is [certified] LICENSED and qualified to render because the individual is HIV positive;~~

~~[(7)] (20) Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease [Control's] CONTROL AND PREVENTION'S guidelines on universal precautions; or~~

~~[(8)] (21) Is in breach of a service obligation resulting from the applicant's or [certificate holder's] LICENSEE'S receipt of State or federal funding for the applicant's or [certificate holder's] LICENSEE'S physician assistant education.~~

#### 15-314.

(A) SUBJECT TO THE HEARING PROVISIONS OF § 15-315 OF THIS SUBTITLE, THE BOARD, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF THE QUORUM, MAY REPRIMAND ANY PHYSICIAN ASSISTANT, PLACE ANY PHYSICIAN ASSISTANT ON PROBATION, OR SUSPEND OR REVOKE A LICENSE IF THE PHYSICIAN ASSISTANT:

(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A LICENSE FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER;

(2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

(3) IS GUILTY OF:

(I) IMMORAL CONDUCT IN THE PRACTICE OF MEDICINE; OR

(II) UNPROFESSIONAL CONDUCT IN THE PRACTICE OF MEDICINE;

(4) IS PROFESSIONALLY, PHYSICALLY, OR MENTALLY INCOMPETENT;

(5) SOLICITS OR ADVERTISES IN VIOLATION OF § 14-503 OF THIS TITLE ARTICLE;

(6) ABANDONS A PATIENT;

(7) HABITUALLY IS INTOXICATED;

(8) IS ADDICTED TO, OR HABITUALLY ABUSES, ANY NARCOTIC OR CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE;

(9) PROVIDES PROFESSIONAL SERVICES:

(i) WHILE UNDER THE INFLUENCE OF ALCOHOL; OR

(ii) WHILE USING ANY NARCOTIC OR CONTROLLED DANGEROUS SUBSTANCE, AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE, OR OTHER DRUG THAT IS IN EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL INDICATION;

(10) PROMOTES THE SALE OF DRUGS, DEVICES, APPLIANCES, OR GOODS TO A PATIENT SO AS TO EXPLOIT THE PATIENT FOR FINANCIAL GAIN;

(11) WILLFULLY MAKES OR FILES A FALSE REPORT OR RECORD IN THE PRACTICE OF MEDICINE;

(12) WILLFULLY FAILS TO FILE OR RECORD ANY MEDICAL REPORT AS REQUIRED UNDER LAW, WILLFULLY IMPEDES OR OBSTRUCTS THE FILING OR RECORDING OF THE REPORT, OR INDUCES ANOTHER TO FAIL TO FILE OR RECORD THE REPORT;

(13) ON PROPER REQUEST, AND IN ACCORDANCE WITH THE PROVISIONS OF TITLE 4, SUBTITLE 3 OF THE HEALTH – GENERAL ARTICLE, FAILS TO PROVIDE DETAILS OF A PATIENT’S MEDICAL RECORD TO THE PATIENT, ANOTHER PHYSICIAN, OR HOSPITAL;

(14) SOLICITS PROFESSIONAL PATRONAGE THROUGH AN AGENT OR OTHER PERSON OR PROFITS FROM THE ACTS OF A PERSON WHO IS REPRESENTED AS AN AGENT OF THE PHYSICIAN;

(15) PAYS OR AGREES TO PAY ANY SUM TO ANY PERSON FOR BRINGING OR REFERRING A PATIENT OR ACCEPTS OR AGREES TO ACCEPT ANY SUM FROM ANY PERSON FOR BRINGING OR REFERRING A PATIENT;

(16) AGREES WITH A CLINICAL OR BIOANALYTICAL LABORATORY TO MAKE PAYMENTS TO THE LABORATORY FOR A TEST OR TEST SERIES FOR A PATIENT, UNLESS THE LICENSED PHYSICIAN ASSISTANT DISCLOSES ON THE BILL TO THE PATIENT OR THIRD-PARTY PAYOR:

(i) THE NAME OF THE LABORATORY;

(II) THE AMOUNT PAID TO THE LABORATORY FOR THE TEST OR TEST SERIES; AND

(III) THE AMOUNT OF PROCUREMENT OR PROCESSING CHARGE OF THE LICENSED PHYSICIAN, IF ANY, FOR EACH SPECIMEN TAKEN;

(17) MAKES A WILLFUL MISREPRESENTATION IN TREATMENT;

(18) PRACTICES MEDICINE WITH AN UNAUTHORIZED PERSON OR AIDS AN UNAUTHORIZED PERSON IN THE PRACTICE OF MEDICINE;

(19) GROSSLY OVERUTILIZES HEALTH CARE SERVICES;

(20) OFFERS, UNDERTAKES, OR AGREES TO CURE OR TREAT DISEASE BY A SECRET METHOD, TREATMENT, OR MEDICINE;

(21) IS DISCIPLINED BY A LICENSING OR DISCIPLINARY AUTHORITY OR CONVICTED OR DISCIPLINED BY A COURT OF ANY STATE OR COUNTRY OR DISCIPLINED BY ANY BRANCH OF THE UNITED STATES UNIFORMED SERVICES OR THE VETERANS ADMINISTRATION FOR AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THIS SECTION;

(22) FAILS TO MEET APPROPRIATE STANDARDS FOR THE DELIVERY OF QUALITY MEDICAL AND SURGICAL CARE PERFORMED IN AN OUTPATIENT SURGICAL FACILITY, OFFICE, HOSPITAL, OR ANY OTHER LOCATION IN THIS STATE;

(23) WILLFULLY SUBMITS FALSE STATEMENTS TO COLLECT FEES FOR WHICH SERVICES ARE NOT PROVIDED;

(24) WAS SUBJECT TO INVESTIGATION OR DISCIPLINARY ACTION BY A LICENSING OR DISCIPLINARY AUTHORITY OR BY A COURT OF ANY STATE OR COUNTRY FOR AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THIS SECTION AND THE LICENSEE:

(I) SURRENDERED THE LICENSE ISSUED BY THE STATE OR COUNTRY TO THE STATE OR COUNTRY; OR

(II) ALLOWED THE LICENSE ISSUED BY THE STATE OR COUNTRY TO EXPIRE OR LAPSE;

(25) KNOWINGLY FAILS TO REPORT SUSPECTED CHILD ABUSE IN VIOLATION OF § 5-704 OF THE FAMILY LAW ARTICLE;

(26) FAILS TO EDUCATE A PATIENT BEING TREATED FOR BREAST CANCER OF ALTERNATIVE METHODS OF TREATMENT AS REQUIRED BY § 20-113 OF THE HEALTH – GENERAL ARTICLE;

(27) SELLS, PRESCRIBES, GIVES AWAY, OR ADMINISTERS DRUGS FOR ILLEGAL OR ILLEGITIMATE MEDICAL PURPOSES;

(28) FAILS TO COMPLY WITH THE PROVISIONS OF § 12-102 OF THIS ARTICLE;

(29) REFUSES, WITHHOLDS FROM, DENIES, OR DISCRIMINATES AGAINST AN INDIVIDUAL WITH REGARD TO THE PROVISION OF PROFESSIONAL SERVICES FOR WHICH THE PHYSICIAN ASSISTANT IS LICENSED AND QUALIFIED TO RENDER BECAUSE THE INDIVIDUAL IS HIV POSITIVE;

(30) EXCEPT AS TO AN ASSOCIATION THAT HAS REMAINED IN CONTINUOUS EXISTENCE SINCE JULY 1, 1963:

(I) ASSOCIATES WITH A PHARMACIST AS A PARTNER OR CO-OWNER OF A PHARMACY FOR THE PURPOSE OF OPERATING A PHARMACY;

(II) EMPLOYS A PHARMACIST FOR THE PURPOSE OF OPERATING A PHARMACY; OR

(III) CONTRACTS WITH A PHARMACIST FOR THE PURPOSE OF OPERATING A PHARMACY;

(31) EXCEPT IN AN EMERGENCY LIFE-THREATENING SITUATION WHERE IT IS NOT FEASIBLE OR PRACTICABLE, FAILS TO COMPLY WITH THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S GUIDELINES ON UNIVERSAL PRECAUTIONS;

(32) FAILS TO DISPLAY THE NOTICE REQUIRED UNDER § 14-415 OF THIS ~~SUBTITLE~~ ARTICLE;

(33) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED BY THE BOARD;

(34) IS CONVICTED OF INSURANCE FRAUD AS DEFINED IN § 27-801 OF THE INSURANCE ARTICLE;

(35) IS IN BREACH OF A SERVICE OBLIGATION RESULTING FROM THE APPLICANT'S OR LICENSEE'S RECEIPT OF STATE OR FEDERAL FUNDING FOR THE PHYSICIAN ASSISTANT'S MEDICAL EDUCATION;

(36) WILLFULLY MAKES A FALSE REPRESENTATION WHEN SEEKING OR MAKING APPLICATION FOR LICENSURE OR ANY OTHER APPLICATION RELATED TO THE PRACTICE OF MEDICINE;

(37) BY CORRUPT MEANS, THREATS, OR FORCE, INTIMIDATES OR INFLUENCES, OR ATTEMPTS TO INTIMIDATE OR INFLUENCE, FOR THE PURPOSE OF CAUSING ANY PERSON TO WITHHOLD OR CHANGE TESTIMONY IN HEARINGS OR PROCEEDINGS BEFORE THE BOARD OR THOSE OTHERWISE DELEGATED TO THE OFFICE OF ADMINISTRATIVE HEARINGS;

(38) BY CORRUPT MEANS, THREATS, OR FORCE, HINDERS, PREVENTS, OR OTHERWISE DELAYS ANY PERSON FROM MAKING INFORMATION AVAILABLE TO THE BOARD IN FURTHERANCE OF ANY INVESTIGATION OF THE BOARD;

(39) INTENTIONALLY MISREPRESENTS CREDENTIALS FOR THE PURPOSE OF TESTIFYING OR RENDERING AN EXPERT OPINION IN HEARINGS OR PROCEEDINGS BEFORE THE BOARD OR THOSE OTHERWISE DELEGATED TO THE OFFICE OF ADMINISTRATIVE HEARINGS;

(40) FAILS TO KEEP ADEQUATE MEDICAL RECORDS;

(41) PERFORMS DELEGATED MEDICAL ACTS BEYOND THE SCOPE OF THE DELEGATION AGREEMENT FILED WITH THE BOARD OR AFTER NOTIFICATION FROM THE BOARD THAT AN ADVANCED DUTY HAS BEEN DISAPPROVED; OR

(42) PERFORMS DELEGATED MEDICAL ACTS WITHOUT THE SUPERVISION OF A PHYSICIAN.

(B) (1) ON THE FILING OF CERTIFIED DOCKET ENTRIES WITH THE BOARD BY THE OFFICE OF THE ATTORNEY GENERAL, THE BOARD SHALL ORDER THE SUSPENSION OF A LICENSE IF THE PHYSICIAN ASSISTANT IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE WITH RESPECT TO A CRIME INVOLVING MORAL TURPITUDE, WHETHER OR NOT ANY APPEAL OR OTHER PROCEEDING IS PENDING TO HAVE THE CONVICTION OR PLEA SET ASIDE.

(2) AFTER COMPLETION OF THE APPELLATE PROCESS IF THE CONVICTION HAS NOT BEEN REVERSED OR THE PLEA HAS NOT BEEN SET ASIDE WITH RESPECT TO A CRIME INVOLVING MORAL TURPITUDE, THE BOARD SHALL ORDER THE REVOCATION OF A LICENSE ON THE CERTIFICATION BY THE OFFICE OF THE ATTORNEY GENERAL.

15-315.

(a) (1) Except as otherwise provided under § 10-226 of the State Government Article, before the Board takes any action under ~~§ 15-314~~ **§ 15-314(A)** of this subtitle, the Board shall give the individual against whom the action is contemplated an opportunity for a hearing before a hearing officer.

(2) The hearing officer shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(3) The Board may administer oaths in connection with any proceeding under this section.

(4) At least 14 days before the hearing, the hearing notice required under this subtitle shall be sent by certified mail to the last known address of the individual.

(b) (1) Any [certificate holder] LICENSEE who is aggrieved by a final decision of the Board under this subtitle may not appeal to the Board of Review but may take a direct judicial appeal.

(2) The appeal shall be as provided for judicial review of the final decision in Title 10, Subtitle 2 of the State Government Article.

(c) An order of the Board under this subtitle may not be stayed pending review.

(d) All of the findings and orders of the Board that relate to physician assistants are subject to the provisions of Title 14, Subtitle 4 of this article.

15-316.

~~(A) A PHYSICIAN ASSISTANT WHO IS LICENSED IN THIS STATE OR AUTHORIZED TO PRACTICE IN ANY OTHER STATE OR WHO IS CREDENTIALLED AS A PHYSICIAN ASSISTANT BY A FEDERAL EMPLOYER WHO RESPONDS TO A NEED FOR MEDICAL CARE IN AN EMERGENCY OR A STATE OR LOCAL DISASTER MAY PERFORM A MEDICAL ACT WITHOUT SUPERVISION OR WITH ANY SUPERVISION THAT IS AVAILABLE.~~

~~(B) A PHYSICIAN WHO SUPERVISES A PHYSICIAN ASSISTANT WHO PERFORMS A MEDICAL ACT IN RESPONSE TO AN EMERGENCY OR A STATE OR LOCAL DISASTER IS NOT REQUIRED TO MEET THE REQUIREMENTS FOR A PRIMARY OR ALTERNATE SUPERVISING PHYSICIAN UNDER THIS TITLE.~~

(A) IF AFTER A HEARING UNDER § 15-315 OF THIS SUBTITLE, THE BOARD FINDS THAT THERE ARE GROUNDS FOR DISCIPLINE UNDER § 15-314(A) OF THIS SUBTITLE TO SUSPEND OR REVOKE A LICENSE OF A PHYSICIAN ASSISTANT OR TO DENY A LICENSE TO AN APPLICANT OR TO REPRIMAND A LICENSED PHYSICIAN ASSISTANT, THE BOARD MAY IMPOSE A FINE SUBJECT TO THE BOARD'S REGULATIONS INSTEAD OF OR IN ADDITION TO SUSPENDING OR REVOKING THE LICENSE OR REPRIMANDING THE LICENSEE.

(B) THE BOARD SHALL PAY ANY FINES COLLECTED UNDER THIS SECTION INTO THE GENERAL FUND OF THE STATE.

15-317.

(A) A PHYSICIAN ASSISTANT IN THIS STATE OR IN ANY OTHER STATE IS AUTHORIZED TO PERFORM ACTS, TASKS, OR FUNCTIONS AS A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THE STATE DURING A DISASTER AS DEFINED BY THE GOVERNOR, WITHIN A COUNTY IN WHICH A STATE OF DISASTER HAS BEEN DECLARED, OR COUNTIES CONTIGUOUS TO A COUNTY IN WHICH A STATE OF DISASTER HAS BEEN DECLARED.

(B) THE PHYSICIAN ASSISTANT SHALL NOTIFY THE BOARD IN WRITING OF THE NAMES, PRACTICE LOCATIONS, AND TELEPHONE NUMBERS FOR THE PHYSICIAN ASSISTANT AND EACH PRIMARY SUPERVISING PHYSICIAN WITHIN 30 DAYS OF THE FIRST PERFORMANCE OF MEDICAL ACTS, TASKS, OR FUNCTIONS AS A PHYSICIAN ASSISTANT DURING THE DISASTER.

(C) A TEAM OF ~~PHYSICIAN~~ PHYSICIANS AND PHYSICIAN ASSISTANTS OR PHYSICIAN ASSISTANTS PRACTICING UNDER THIS SECTION MAY NOT BE REQUIRED TO MAINTAIN ON-SITE DOCUMENTATION DESCRIBING SUPERVISORY ARRANGEMENTS AS OTHERWISE REQUIRED UNDER THIS TITLE.

15-401.

(a) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice as a physician assistant in the State unless the person has a [certificate] LICENSE issued by the Board.

(b) Except as otherwise provided in this title, a person may not perform, attempt to perform, or offer to perform any delegated medical act beyond the scope of the [certificate] LICENSE and which is consistent with a delegation agreement [approved by] FILED WITH the Board.

15-402.

(a) Except as otherwise provided under this title, a person may not represent or imply to the public by use of the title [“certified”] **“LICENSED physician assistant”**, by other title, by description of services, methods, or procedures that the person is [certified] **LICENSED** to practice as a physician assistant in the State.

(b) Unless [certified] **LICENSED** to practice as a physician assistant under this title, a person may not use the words or terms “physician assistant”, [“certified”] **“LICENSED physician assistant”**, or “P.A.”.

**15-402.1.**

**(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A LICENSED PHYSICIAN MAY NOT EMPLOY OR SUPERVISE AN INDIVIDUAL PRACTICING AS A PHYSICIAN ASSISTANT WHO DOES NOT HAVE A LICENSE.**

**(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH CARE SYSTEM, OR EMPLOYER MAY NOT EMPLOY AN INDIVIDUAL PRACTICING AS A PHYSICIAN ASSISTANT WHO DOES NOT HAVE A LICENSE.**

**(C) THE BOARD MAY IMPOSE A CIVIL PENALTY IN AN AMOUNT NOT EXCEEDING \$1,000 FOR A VIOLATION OF THIS SECTION.**

**(D) THE BOARD SHALL REMIT ANY PENALTY COLLECTED UNDER THIS SUBSECTION INTO THE BOARD OF PHYSICIANS FUND.**

15-403.

(a) A person who violates § 15-401 or § 15-402 of this subtitle:

(1) Is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 5 years or both; and

(2) Shall lose [certification] **LICENSURE** as a physician assistant under this title.

(b) (1) In addition to the penalties under subsection (a) of this section, a person who violates § 15-401 of this subtitle may be subject to a civil penalty assessed by the Board in an amount not exceeding \$5,000.

**(2) IN ADDITION TO THE PENALTIES UNDER PARAGRAPH (1) OF THIS SUBSECTION, A PERSON WHO VIOLATES § 15-309 OF THIS TITLE MAY BE SUBJECT TO A CIVIL PENALTY ASSESSED BY THE BOARD IN AN AMOUNT NOT EXCEEDING \$100.**

~~[(2)]~~ **(3)** The Board shall pay any civil penalty collected under this subsection into the Board of Physicians Fund.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 274

### (House Bill 323)

AN ACT concerning

#### Health Occupations – Licensure of Physician Assistants

FOR the purpose of requiring an individual to be licensed rather than certified by the State Board of Physicians before the individual may practice as a physician assistant; ~~repealing certain language prohibiting a physician assistant from practicing within the scope of certain health occupations;~~ requiring hospitals, related institutions, alternative health care systems and employers to report to the ~~State~~ Board certain changes in the terms of employment of physician assistants; making certain exceptions for alcohol- or drug-impaired physician assistants; authorizing the ~~State~~ Board to impose a certain civil penalty for failure to make a certain report; ~~repealing the Physician Assistant Advisory Committee within the State Board and certain provisions of law relating to the Committee;~~ altering the appointments and qualifications for members of the Physician Assistant Advisory Committee within the Board; authorizing the Board, rather than the Secretary of Health and Mental Hygiene, to recommend the removal of certain members of the Committee; authorizing the Executive Director of the Board and certain agents or investigators to enter certain premises under certain circumstances; prohibiting a person from denying or interfering with the entry on premises under certain circumstances; providing for a certain criminal penalty; ~~repealing certain obsolete language; limiting the scope of practice of physician assistants to certain medical acts; repealing~~ altering the authority of the ~~State~~ Board to review and approve certain delegation agreements; requiring physicians to file completed delegation agreements with the ~~State~~ Board in order to supervise physician assistants; ~~authorizing physician assistants to perform certain functions that are delegated by primary or alternate supervising physicians; requiring primary or alternate supervising physicians to provide certain supervision; requiring primary supervising physicians to execute certain delegation agreements and file certain agreements with the State Board; repealing a requirement that certain patients~~

~~be seen by supervising physicians within a certain number of appointments or days; altering requirements for the content, review, and approval of certain delegation agreements; prohibiting under certain circumstances, the Board from requiring prior approval of delegation agreements that include certain advanced duties if the duties will be performed in certain hospitals or ambulatory surgical facilities; requiring certain prior approval of a delegation agreement if certain advanced duties are to be performed in certain settings or certain anesthesia is to be administered, monitored, or maintained; increasing the number of physician assistants a primary supervising physician may supervise at one time in certain settings; requiring a new delegation agreement to be submitted within a certain period of time under certain circumstances; authorizing certain physicians to delegate certain medical acts to physician assistants under certain circumstances; requiring the State Board to set a certain fee in a certain manner; authorizing physician assistants to practice in accordance with certain delegation agreements; authorizing primary or alternate supervising physicians to delegate dispensing of certain controlled dangerous substances, prescription drugs, or medical devices under certain circumstances; altering certain circumstances when primary or alternate supervising physicians may delegate prescribing and administering of certain controlled dangerous substances, prescription drugs, and medical devices to physician assistants; authorizing physician assistants to prepare and dispense a sample or starter dosages of certain drugs under certain circumstances; establishing certain qualifications for licensure of physician assistants; making a certain exception; authorizing the State Board to place certain licensees on inactive status; requiring licensees to keep licenses and delegation agreements for inspection at their primary place of business and notify the State Board of certain changes; authorizing the Physician Assistant Rehabilitation Board to request the State Board to direct physician assistants to submit to certain examinations under certain circumstances; establishing a certain administrative penalty for failure to report certain changes; repealing certain language relating to entities with whom the State Board contracts under the Physician Assistant Rehabilitation Program; altering certain provisions relating to the discipline of physician assistants; adding certain grounds for the discipline of physicians; authorizing certain physician assistants to respond to a need for medical care without supervision or with any available supervision under certain emergency circumstances; authorizing certain physician assistants to perform under certain supervision during certain disasters without being required to maintain certain documentation; exempting physicians who supervise physician assistants under certain emergency circumstances from certain requirements; authorizing the State Board to assess a certain civil penalty under certain circumstances; repealing certain definitions; altering certain definitions; making certain stylistic and technical changes; and generally relating to the licensure of physician assistants.~~

BY repealing and reenacting, with amendments,  
Article – Health Occupations

Section 15-101, ~~15-102~~, 15-103, 15-202, 15-203, 15-205, 15-206, 15-301, 15-302, 15-302.1, 15-302.2, 15-302.3, 15-303, 15-304, ~~15-305~~, 15-306, 15-307, 15-308, 15-309, 15-310, 15-311, 15-312, 15-313, ~~15-314~~, 15-315, 15-401, 15-402, and 15-403

Annotated Code of Maryland  
(2009 Replacement Volume)

BY repealing

Article – Health Occupations

~~Section 15-201, 15-202, 15-203, 15-204, and 15-302.1~~ Section 15-305 and 15-314

Annotated Code of Maryland  
(2009 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 15-102, 15-201, and 15-204

Annotated Code of Maryland  
(2009 Replacement Volume)

BY adding to

Article – Health Occupations

~~Section 15-308.1 and 15-316~~ 15-305, 15-314, 15-316, 15-317, and 15-402.1

Annotated Code of Maryland  
(2009 Replacement Volume)

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

### **Article – Health Occupations**

15-101.

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

(b) “Alternate supervising physician” means one or more physicians designated by the **PRIMARY** supervising physician to provide supervision of a physician assistant [during the absence of the supervising physician and] in accordance with the delegation agreement on file with the Board.

**(C) “AMBULATORY SURGICAL FACILITY” MEANS A FACILITY:**

**(1) ACCREDITED BY:**

**(i) THE AMERICAN ASSOCIATION FOR ACCREDITATION OF AMBULATORY SURGICAL FACILITIES;**

**(II) THE ACCREDITATION ASSOCIATION FOR AMBULATORY HEALTH CARE; OR**

**(III) THE JOINT COMMISSION ON THE ACCREDITATION OF HEALTH CARE ORGANIZATIONS; OR**

**(2) CERTIFIED TO PARTICIPATE IN THE MEDICARE PROGRAM, AS ENACTED BY TITLE XVIII OF THE SOCIAL SECURITY ACT.**

~~(e)~~ **(D)** “Board” means the State Board of Physicians, established under § 14–201 of this article.

[(d)] “Certificate” means a certificate issued by the Board to a physician assistant under this title.]

(e) “Committee” means the Physician Assistant Advisory Committee.‡

~~[(f)]~~ ~~(D)~~ “Controlled dangerous substances” has the meaning stated in § 5–101 of the Criminal Law Article.

~~[(g)]~~ ~~(E)~~ “Correctional facility” includes a State or local correctional facility.

~~[(h)]~~ ~~(F)~~ “Delegated medical acts” means activities that constitute the practice of medicine delegated by a physician under Title 14 of this article.

~~[(i)]~~ ~~(G)~~ “Delegation agreement” means a document that is executed by a **PRIMARY** supervising physician and a physician assistant containing the requirements of ~~[(§ 15–302)]~~ ~~§§ 15–302 AND 15–302.1~~ of this title.

[(j)] “Designated pharmacy” means a pharmacy that has an agreement to supply medications for a hospital, public health facility, correctional facility, or detention center if:

(1) The hospital, public health facility, correctional facility, or detention center does not have an on-site pharmacy; or

(2) The on-site pharmacy at the hospital, public health facility, correctional facility, or detention center is closed or does not have a particular medication in stock.]

**(J) “DISPENSE” MEANS TO DISPENSE DRUG SAMPLES OR STARTER DOSAGES.**

**(K) “DRUG SAMPLE” MEANS A UNIT OF A PRESCRIPTION DRUG THAT IS INTENDED TO PROMOTE THE SALE OF THE DRUG AND IS NOT INTENDED FOR SALE.**

**~~(k)~~ ~~(H)~~ (L)** “Hospital” means:

(1) A hospital as defined under § 19–301 of the Health – General Article;

(2) A comprehensive care facility that:

(i) Meets the requirements of a hospital–based skilled nursing facility under federal law; **AND**

(ii) Offers acute care in the same building[; and

(iii) Has the same protocols and degree of supervision of physician assistants as it does in its acute care area]; and

(3) An emergency room that is physically connected to a hospital **OR A FREESTANDING MEDICAL FACILITY THAT IS LICENSED UNDER TITLE 19, SUBTITLE ~~3B~~ 3A OF THE HEALTH – GENERAL ARTICLE.**

**~~(H)~~ (M)** “LICENSE” MEANS A LICENSE ISSUED BY THE BOARD TO A PHYSICIAN ASSISTANT UNDER THIS TITLE.

**~~(I)~~ ~~(J)~~ (N)** “National certifying examination” means [an examination offered by a national organization, which certifies physician assistants as having achieved a certain level of training] **THE PHYSICIAN ASSISTANT NATIONAL CERTIFYING EXAMINATION ADMINISTERED BY THE NATIONAL COMMISSION ON CERTIFICATION OF PHYSICIAN ASSISTANTS OR ITS SUCCESSOR.**

**~~(m)~~ ~~(K)~~ (O)** “Physician assistant” means an individual who is [certified] **LICENSED** under this title to [perform delegated medical acts under the supervision of a] **PRACTICE MEDICINE WITH physician SUPERVISION.**

**~~(n)~~ ~~(L)~~ (P)** “Practice as a physician assistant” means the performance of medical acts that are:

(1) Delegated by a ~~PRIMARY OR ALTERNATE~~ supervising physician to a physician assistant;

(2) Within the ~~PRIMARY OR ALTERNATE~~ supervising physician’s scope of practice; and

(3) Appropriate to the physician assistant's education, training, and experience ~~AS DETERMINED BY THE PRIMARY SUPERVISING PHYSICIAN.~~

~~[(o)]~~ ~~(M)~~ **(Q)** "Prescriptive authority" means the authority delegated by a **PRIMARY OR ALTERNATE** supervising physician to a physician assistant to [prescribe]:

**(1) PRESCRIBE** and administer controlled dangerous substances, prescription drugs, medical devices, and the oral, written, or electronic ordering of medications; **AND**

**(2) DISPENSE AS PROVIDED UNDER § 15-301.1(C), (D), AND (E) OF THIS TITLE.**

~~(N)~~ **(R)** "**PRIMARY SUPERVISING PHYSICIAN**" MEANS A PHYSICIAN WHO:

**(1) COMPLETES A DELEGATION AGREEMENT THAT MEETS THE REQUIREMENTS UNDER §§ 15-301(D) AND (E) AND 15-302 OF THIS TITLE AND FILES A COPY WITH THE BOARD;**

**(2) ACTS AS THE PHYSICIAN RESPONSIBLE TO ENSURE THAT A PHYSICIAN ASSISTANT PRACTICES MEDICINE IN ACCORDANCE WITH THIS TITLE AND THE REGULATIONS ADOPTED UNDER THIS TITLE;**

**(3) ~~SEEKS TO ENSURE~~ ENSURES THAT A PHYSICIAN ASSISTANT PRACTICES WITHIN THE SCOPE OF PRACTICE OF THE PRIMARY SUPERVISING PHYSICIAN OR ANY DESIGNATED ALTERNATE SUPERVISING PHYSICIAN; AND**

**(4) ~~SEEKS TO ENSURE~~ ENSURES THAT A LIST OF ALTERNATE SUPERVISING PHYSICIANS IS MAINTAINED AT THE PRACTICE SETTING.**

**[(p)]** "Protocols" means written policies, bylaws, rules, or regulations established by a hospital, public health facility, correctional facility, or detention center that:

**(1)** Are established in consultation with and with the approval of its medical staff;

**(2)** Describe the delegated medical acts a physician assistant may execute; and

**(3)** Specify the minimum requirements for supervision by a physician.]

[(q)] ~~(o)~~ (s) “Public health facility” means a [fixed] site where clinical public health services are rendered under the auspices of the Department, a local health department in a county, or the Baltimore City Health Department.

[(r)] “Supervising physician” means a physician who has been approved by the Board to supervise one or more physician assistants.]

**(T) “STARTER DOSAGE” MEANS AN AMOUNT OF A DRUG SUFFICIENT TO BEGIN THERAPY:**

**(1) OF SHORT DURATION OF 72 HOURS OR LESS; OR**

**(2) PRIOR TO OBTAINING A LARGER QUANTITY OF THE DRUG TO COMPLETE THERAPY.**

[(s)] ~~(p)~~ (u) (1) “Supervision” means ~~the responsibility of a physician to exercise on-site supervision or immediately available direction for physician assistants performing delegated medical acts] ~~PHYSICIAN OVERSIGHT OF AND ACCEPTANCE OF RESPONSIBILITY FOR THE MEDICAL SERVICES AND CARE RENDERED BY A PHYSICIAN ASSISTANT.~~~~

(2) “Supervision” ~~includes physician oversight of and acceptance of direct responsibility for the patient services and care rendered by a physician assistant, including continuous availability to the physician assistant in person, through written instructions, or by electronic means and by designation of one or more alternate supervising physicians] ~~DOES NOT REQUIRE THE ON-SITE PHYSICAL PRESENCE OF A PRIMARY SUPERVISING PHYSICIAN PROVIDED THAT THE PRIMARY SUPERVISING PHYSICIAN AND THE PHYSICIAN ASSISTANT ARE ABLE TO BE IN CONTACT WITH EACH OTHER BY TELECOMMUNICATION.~~~~

15-102.

~~(a)~~ A physician assistant may not practice within the scope of practice of any of the following health occupations authorized under this article:

- (1) Nursing;
- (2) Optometry;
- (3) Physical therapy; or
- (4) Psychology.

~~(b)~~ This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

15-103.

**(A) IN THIS SECTION, "ALTERNATIVE HEALTH CARE SYSTEM" HAS THE MEANING STATED IN § 1-401 OF THIS ARTICLE.**

**[(a)] (B)** An employer of a physician assistant shall report to the Board, on the form prescribed by the Board, any termination of employment of the physician assistant if the cause of termination IS related to a quality of care issue.

**(C) EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTIONS (B) AND (D) OF THIS SECTION, A HOSPITAL, A RELATED INSTITUTION, AN ALTERNATIVE HEALTH CARE SYSTEM, OR AN EMPLOYER OF A PHYSICIAN ASSISTANT SHALL REPORT TO THE BOARD, ~~ON THE FORM PRESCRIBED BY THE BOARD,~~ ANY LIMITATION, REDUCTION, OR OTHER CHANGE OF THE TERMS OF EMPLOYMENT OF THE PHYSICIAN ASSISTANT OR ANY TERMINATION OF EMPLOYMENT OF THE PHYSICIAN ASSISTANT FOR ANY REASON THAT MIGHT BE GROUNDS FOR DISCIPLINARY ACTION UNDER § 15-314 OF THIS TITLE.**

**(D) A HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER THAT HAS REASON TO KNOW THAT A PHYSICIAN ASSISTANT HAS COMMITTED AN ACTION OR HAS A CONDITION THAT MIGHT BE GROUNDS FOR REPRIMAND OR PROBATION OF THE PHYSICIAN ASSISTANT OR SUSPENSION OR REVOCATION OF THE LICENSE OF THE PHYSICIAN ASSISTANT UNDER § 15-314 OF THIS TITLE BECAUSE THE PHYSICIAN ASSISTANT IS ALCOHOL- OR DRUG-IMPAIRED IS NOT REQUIRED TO REPORT TO THE BOARD IF:**

**(1) THE HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER KNOWS THAT THE PHYSICIAN ASSISTANT IS:**

**(I) IN AN ALCOHOL OR DRUG TREATMENT PROGRAM THAT IS ACCREDITED BY THE JOINT COMMISSION ON THE ACCREDITATION OF HEALTHCARE ORGANIZATIONS OR IS CERTIFIED BY THE DEPARTMENT; OR**

**(II) UNDER THE CARE OF A HEALTH CARE PRACTITIONER WHO IS COMPETENT AND CAPABLE OF DEALING WITH ALCOHOLISM AND DRUG ABUSE;**

**(2) THE HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER IS ABLE TO VERIFY THAT THE PHYSICIAN ASSISTANT REMAINS IN THE TREATMENT PROGRAM UNTIL DISCHARGE; AND**

**(3) THE ACTION OR CONDITION OF THE PHYSICIAN ASSISTANT HAS NOT CAUSED INJURY TO ANY PERSON WHILE THE PHYSICIAN ASSISTANT IS PRACTICING AS A LICENSED PHYSICIAN ASSISTANT.**

**(E) (1) IF THE PHYSICIAN ASSISTANT ENTERS, OR IS CONSIDERING ENTERING, AN ALCOHOL OR DRUG TREATMENT PROGRAM THAT IS ACCREDITED BY THE JOINT COMMISSION ON ACCREDITATION OF HEALTHCARE ORGANIZATIONS OR THAT IS CERTIFIED BY THE DEPARTMENT, THE PHYSICIAN ASSISTANT SHALL NOTIFY THE HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER OF THE PHYSICIAN ASSISTANT'S DECISION TO ENTER THE TREATMENT PROGRAM.**

**(2) IF THE PHYSICIAN ASSISTANT FAILS TO PROVIDE THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, AND THE HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER LEARNS THAT THE PHYSICIAN ASSISTANT HAS ENTERED A TREATMENT PROGRAM, THE HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER SHALL REPORT TO THE BOARD THAT THE PHYSICIAN ASSISTANT HAS ENTERED A TREATMENT PROGRAM AND HAS FAILED TO PROVIDE THE REQUIRED NOTICE.**

**(3) IF THE PHYSICIAN ASSISTANT IS FOUND TO BE NONCOMPLIANT WITH THE TREATMENT PROGRAM'S POLICIES AND PROCEDURES WHILE IN THE TREATMENT PROGRAM, THE TREATMENT PROGRAM SHALL NOTIFY THE HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER OF THE PHYSICIAN ASSISTANT'S NONCOMPLIANCE.**

**(4) ON RECEIPT OF THE NOTIFICATION REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER OF THE PHYSICIAN ASSISTANT SHALL REPORT THE PHYSICIAN ASSISTANT'S NONCOMPLIANCE TO THE BOARD.**

**(F) A PERSON IS NOT REQUIRED UNDER THIS SECTION TO MAKE ANY REPORT THAT WOULD BE IN VIOLATION OF ANY FEDERAL OR STATE LAW, RULE, OR REGULATION CONCERNING THE CONFIDENTIALITY OF ALCOHOL- AND DRUG-ABUSE PATIENT RECORDS.**

**(G) THE HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER SHALL SUBMIT THE REPORT WITHIN 10 DAYS OF ANY ACTION DESCRIBED IN THIS SECTION.**

**(H) A REPORT UNDER THIS SECTION IS NOT SUBJECT TO SUBPOENA OR DISCOVERY IN ANY CIVIL ACTION OTHER THAN A PROCEEDING ARISING OUT OF A HEARING AND DECISION OF THE BOARD UNDER THIS TITLE.**

**(I) (1) THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$1,000 FOR FAILURE TO REPORT UNDER THIS SECTION.**

**(2) THE BOARD SHALL PAY ANY FEES COLLECTED UNDER THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.**

**[(b)] (J)** An employer shall make the report required under this section to the Board within 5 days after the date of termination of employment.

**[(c)] (K)** The Board shall adopt regulations to implement the provisions of this section.

~~§~~15-201.

(a) There is a Physician Assistant Advisory Committee within the Board.

(b) The Committee shall function as a subunit of the Board.~~‡~~

~~§~~15-202.

(a) (1) The Committee shall consist of 7 members appointed by the Board.

(2) Of the 7 Committee members:

(i) 3 shall be licensed physicians;

(ii) 3 shall be ~~certified~~ **LICENSED** physician assistants; and

(iii) 1 shall be a consumer.

(3) Of the licensed physician members:

(i) At least 1 shall specialize in general surgery or a surgical subspecialty; ~~and~~

(ii) At least 1 shall specialize in internal medicine, family practice, or a similar primary care specialty; **AND**

**(III) 1 SHALL BE A BOARD MEMBER.**

(4) The Board shall~~‡~~

~~(i)~~ ~~Appoint~~ **APPOINT** the physician assistant members from a list of names submitted by:

~~1=~~ **(I)** The Maryland Academy of Physician Assistants; and

~~2=~~ **(II)** The State institutions of higher education with approved physician assistant programs;

~~(ii)~~ ~~Appoint the consumer member selected by the Secretary of the Department of Health and Mental Hygiene; and~~

~~(iii)~~ ~~Assign a physician member of the Board to serve as a voting Board representative at all meetings of the Advisory Committee.~~

(5) The consumer member:

(i) Shall be a member of the general public;

(ii) May not be a physician, former physician, physician assistant, or a person in training to become a physician or physician assistant;

(iii) May not have a household member who is a physician or physician assistant, or a person in training to become a physician assistant; and

(iv) May not have had within 2 years before appointment a substantial financial interest in a process regulated by the Board.

(6) Each member of the Committee shall be a resident of the State.

(b) Of the three physician members of the Committee, two shall be previously or currently serving as supervising physicians of a physician assistant under a Board-approved delegation agreement.

(c) **(1)** The physician assistant members shall be ~~certified~~ **LICENSED** as a physician assistant under this title.

~~(d)~~ **(2)** The physician assistant members shall be currently practicing as a physician assistant or employed as a faculty member of an accredited physician assistant program.

**(3) OF THE 3 PHYSICIAN ASSISTANT MEMBERS OF THE COMMITTEE:**

**(I) AT LEAST 1 SHALL BE CURRENTLY PRACTICING IN A HOSPITAL; AND**

(II) AT LEAST 1 SHALL BE CURRENTLY PRACTICING IN A NONHOSPITAL SETTING.

~~(D)~~ (D) A Committee chairperson and a secretary shall be selected every 2 years by a majority vote of the membership of the Committee.

~~(E)~~ (E) The chairperson shall serve in an advisory capacity to the Board as a representative of the Committee.†

†15-203.

(a) The Board shall adopt regulations governing:

- (1) The term of office for Committee members;
- (2) The procedure for filling vacancies on the Committee;
- (3) The removal of Committee members; and
- (4) The duties of each officer.

(b) In addition to the regulations on removal of members adopted by the Board, upon the recommendation of the ~~Secretary~~ **BOARD** the Governor may remove a member whom the ~~Secretary~~ **BOARD** finds to have been absent from 2 successive Committee meetings without adequate reason.†

†15-204.

Funds for compensation, expenses, and staff for the Committee shall be allocated to the Board in the State budget.†

†15-205.† ~~15-201.~~

(a) †In addition to the powers set forth elsewhere in this title, the Committee, on its initiative or on the Board's request, may:

- (1) Recommend to the Board regulations for carrying out the provisions of this title;
- (2) Recommend to the Board approval, modification, or disapproval of an application for ~~certification~~ **LICENSURE** or a delegation agreement;
- (3) Report to the Board any conduct of a supervising physician or a physician assistant that may be cause for disciplinary action under this title or under § 14-404 of this article; and

(4) Report to the Board any alleged unauthorized practice of a physician assistant.

(b) (1) In addition to the duties set forth elsewhere in this title, the Board shall adopt regulations to carry out the provisions of this title.

(2) The Board shall:

(i) Consider all recommendations of the Committee; and

(ii) Provide a written explanation of the Board's reasons for rejecting or modifying the Committee's recommendations.

(3) ~~(B)~~ The Board may:

(i) ~~(1)~~ Investigate any alleged unauthorized practice of a physician assistant;

(ii) ~~(2)~~ Investigate any conduct that may be cause for disciplinary action under this title; and

(iii) ~~(3)~~ On receipt of a written and signed complaint, including a referral from the Commissioner of Labor and Industry, conduct an unannounced inspection of the office of a physician assistant, other than an office of a physician assistant in a hospital, related institution, freestanding medical facility, or [a] freestanding birthing center, to determine compliance at that office with the Centers for Disease [Control's] **CONTROL AND PREVENTION'S** guidelines on universal precautions.

**(4) IF THE ENTRY IS NECESSARY TO CARRY OUT A DUTY UNDER THIS SUBTITLE, INCLUDING AN INVESTIGATION OR DETERMINATION OF COMPLIANCE AS PROVIDED UNDER PARAGRAPH (3) OF THIS SUBSECTION AND AN AUDIT TO DETERMINE COMPLIANCE WITH THE BOARD'S REQUIREMENTS WITH RESPECT TO PHYSICIAN ASSISTANT PRACTICE, THE EXECUTIVE DIRECTOR OF THE BOARD OR OTHER DULY AUTHORIZED AGENT OR INVESTIGATOR MAY ENTER AT ANY REASONABLE HOUR A PLACE OF BUSINESS OF A LICENSED PHYSICIAN OR A LICENSED PHYSICIAN ASSISTANT OR PUBLIC PREMISES.**

**(5) (I) A PERSON MAY NOT DENY OR INTERFERE WITH AN ENTRY UNDER THIS SUBSECTION.**

**(II) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$100.**

~~§15-206.} 15-202.~~

(a) The Board shall set reasonable fees for:

(1) The issuance and renewal of ~~[certificates]~~ LICENSES; and

(2) The other services rendered by the Board in connection with physician assistants.

(b) (1) The Board shall pay all fees collected under this title to the Comptroller of the State.

(2) (i) If the Governor does not include in the State budget at least \$750,000 for the operation of the Health Personnel Shortage Incentive Grant Program under § 18-803 of the Education Article and the Maryland Loan Assistance Repayment Program for Physicians under Title 18, Subtitle 28 of the Education Article, as administered by the Maryland Higher Education Commission, the Comptroller shall distribute:

1. ~~[Except as provided in subparagraph (ii) of this paragraph,]~~ 12 percent of the fees received from the Board to the Office of Student Financial Assistance to be used as follows:

A. One-half to make grants under the Health Personnel Shortage Incentive Grant Program under § 18-803 of the Education Article; and

B. One-half to make grants under the Maryland Loan Assistance Repayment Program for Physicians under Title 18, Subtitle 28 of the Education Article to physicians engaged in primary care or to medical residents specializing in primary care who agree to practice for at least 2 years as primary care physicians in a geographic area of the State that has been designated by the Secretary of Health and Mental Hygiene as being medically underserved; and

2. The balance of the fees to the Board of Physicians Fund.

(ii) ~~[For fiscal 2008, if the Governor does not include in the State budget the funds specified under subparagraph (i) of this paragraph, the Comptroller shall distribute 14 percent of the fees received from the Board to the Office of Student Financial Assistance to be used as provided under subparagraph (i) of this paragraph.~~

(iii) ~~[If the Governor includes in the State budget at least \$750,000 for the operation of the Health Personnel Shortage Incentive Grant Program under § 18-803 of the Education Article and the Maryland Loan Assistance~~

Repayment Program for Physicians under Title 18, Subtitle 28 of the Education Article, as administered by the Maryland Higher Education Commission, the Comptroller shall distribute the fees to the Board of Physicians Fund.

15–301.

(a) Nothing in this title may be construed to authorize a physician assistant to practice independent of a **PRIMARY OR ALTERNATE** supervising physician.

(b) A [certificate] **LICENSE** issued to a physician assistant shall limit the physician assistant's scope of practice to medical acts:

(1) Delegated by the **PRIMARY OR ALTERNATE** supervising physician;

(2) Appropriate to the education, training, and experience of the physician assistant ~~AS DETERMINED BY THE PRIMARY SUPERVISING PHYSICIAN;~~

(3) Customary to the practice of the **PRIMARY OR ALTERNATE** supervising physician; and

(4) Consistent with the delegation agreement [submitted to] **FILED WITH** the Board.

‡(c) Patient services that may be provided by a physician assistant include:

(1) (i) Taking complete, detailed, and accurate patient histories; and

(ii) Reviewing patient records to develop comprehensive medical status reports;

(2) Performing physical examinations and recording all pertinent patient data;

(3) Interpreting and evaluating patient data as authorized by the **PRIMARY OR ALTERNATE** supervising physician for the purpose of determining management and treatment of patients;

(4) Initiating requests for or performing diagnostic procedures as indicated by pertinent data and as authorized by the supervising physician;

(5) Providing instructions and guidance regarding medical care matters to patients;

(6) Assisting the PRIMARY OR ALTERNATE supervising physician in the delivery of services to patients who require medical care in the home and in health care institutions, including:

(i) Recording patient progress notes;

(ii) Issuing diagnostic orders; and

(iii) Transcribing or executing specific orders at the direction of the PRIMARY OR ALTERNATE supervising physician; and

(7) Exercising prescriptive authority under ~~an approved~~ A delegation agreement and in accordance with § 15-302.2 of this subtitle.†

~~[(d)] (c)~~ (1) Except as otherwise provided in this title, an individual shall be [certified] **LICENSED** by the Board before the individual may practice as a physician assistant.

(2) Except as otherwise provided in this title, a physician may not supervise a physician assistant in the performance of delegated medical acts without [the approval of] **FILING A COMPLETED DELEGATION AGREEMENT WITH** the Board.

(3) Except as otherwise provided in this title or in a medical emergency, a physician assistant may not perform any medical act for which:

(i) The individual has not been [certified] **LICENSED**; and

(ii) The medical acts have not been delegated by a **PRIMARY OR ALTERNATE** supervising physician.

~~(d) (1) A PHYSICIAN ASSISTANT IS AN INDIVIDUAL WHO PRACTICES MEDICINE ONLY WITH PHYSICIAN SUPERVISION.~~

~~(2) A PHYSICIAN ASSISTANT MAY PERFORM THE FUNCTIONS AND RESPONSIBILITIES, INCLUDING ORDERING, PRESCRIBING AND DISPENSING, AND ADMINISTERING DRUGS AND MEDICAL DEVICES, THAT ARE DELEGATED BY A PRIMARY OR ALTERNATE SUPERVISING PHYSICIAN.~~

~~(3) A PHYSICIAN ASSISTANT MAY PERFORM ANY MEDICAL ACT THAT IS DELEGATED BY THE PRIMARY OR ALTERNATE SUPERVISING PHYSICIAN WHEN THE ACT IS WITHIN THE SKILLS OF THE PHYSICIAN ASSISTANT AS DETERMINED BY THE PRIMARY OR ALTERNATE SUPERVISING PHYSICIAN, FORMS A COMPONENT OF THE PRIMARY OR ALTERNATE SUPERVISING PHYSICIAN'S SCOPE OF PRACTICE, AND IS PROVIDED WITH SUPERVISION.~~

~~(E) (1) A PRIMARY OR ALTERNATE SUPERVISING PHYSICIAN SHALL PROVIDE CONTINUOUS SUPERVISION OF A PHYSICIAN ASSISTANT.~~

~~(2) CONTINUOUS SUPERVISION DOES NOT REQUIRE THE PHYSICAL PRESENCE OF THE PRIMARY OR ALTERNATE SUPERVISING PHYSICIAN AT THE TIME AND PLACE THAT THE PATIENT SERVICES AND CARE ARE RENDERED.~~

~~(3) (I) A PRIMARY OR ALTERNATE SUPERVISING PHYSICIAN SHALL ENSURE THAT ALL MEDICAL ACTS TO BE DELEGATED TO A PHYSICIAN ASSISTANT ARE APPROPRIATE TO THE PHYSICIAN ASSISTANT'S EDUCATION, TRAINING, AND LEVEL OF COMPETENCE, AS DETERMINED BY THE PRIMARY SUPERVISING PHYSICIAN.~~

~~(II) A PHYSICIAN ASSISTANT AND A PRIMARY SUPERVISING PHYSICIAN SHALL:~~

~~1. DEFINE THE RELATIONSHIP OF THE PHYSICIAN ASSISTANT TO THE PRIMARY SUPERVISING PHYSICIAN AND THE ACCESS OF THE PHYSICIAN ASSISTANT TO THE PRIMARY SUPERVISING PHYSICIAN; AND~~

~~2. ESTABLISH A PROCESS TO EVALUATE THE PERFORMANCE OF THE PHYSICIAN ASSISTANT.~~

~~(F) A PRIMARY SUPERVISING PHYSICIAN:~~

~~(1) SHALL BE LICENSED BY THE BOARD TO PRACTICE MEDICINE IN THE STATE;~~

~~(2) MAY NOT BE ENCUMBERED BY ANY RESTRICTION ON THE PHYSICIAN'S LICENSE AS A RESULT OF DISCIPLINARY ACTION BY THE BOARD; AND~~

~~(3) SHALL EXECUTE A DELEGATION AGREEMENT WITH EACH PHYSICIAN ASSISTANT ON THE FORM THAT THE BOARD REQUIRES THAT IS POSTED BY THE BOARD ON ITS WEBSITE OR PROVIDED BY THE BOARD ON WRITTEN REQUEST, STATING THAT THE PHYSICIAN WILL SUPERVISE EACH PHYSICIAN ASSISTANT AND RETAIN PROFESSIONAL RESPONSIBILITY FOR THE CARE RENDERED BY THE PHYSICIAN ASSISTANT.~~

~~(G) A PRIMARY SUPERVISING PHYSICIAN SHALL:~~

~~(1) KEEP A COPY OF EACH DELEGATION AGREEMENT ON FILE AT THE PRACTICE SITE; AND~~

~~(2) FILE A COPY WITH THE BOARD.~~

~~{(e)}~~ ~~(H)~~ A physician assistant is the agent of the **PRIMARY OR ALTERNATE** supervising physician in the performance of all practice-related activities, including the oral, written, or electronic ordering of diagnostic, therapeutic, and other medical services.

~~{(f)}~~ ~~(H)~~ Except as provided in subsection (g) of this section, the following individuals may practice as a physician assistant without a [certificate] **LICENSE**:

(1) A physician assistant student **ENROLLED** in a physician assistant [training] **EDUCATIONAL** program that is accredited by the [Commission on Allied Health Education Programs] **ACCREDITATION REVIEW COMMISSION ON EDUCATION FOR THE PHYSICIAN ASSISTANT OR ITS SUCCESSOR** and approved by the Board; or

(2) A physician assistant employed in the service of the federal government while performing duties incident to that employment.

~~{(g)}~~ ~~(J)~~ A physician may not delegate [the authority to write medication orders or the ability to exercise] prescriptive authority to a physician assistant student in a training program [approved by the Board] **THAT IS ACCREDITED BY THE ACCREDITATION REVIEW COMMISSION ON EDUCATION FOR THE PHYSICIAN ASSISTANT OR ITS SUCCESSOR**.

~~{(h)}~~ ~~(K)~~ (1) [Except as prohibited by § 15-102(a) of this title, if] **IF** a [duty] **MEDICAL ACT** that is to be delegated under this section is a part of the practice of a health occupation that is regulated under this article by another board, any rule or regulation concerning that [duty] **MEDICAL ACT** shall be adopted jointly by the **STATE** Board of Physicians and the board that regulates the other health occupation, ~~EXCEPT IF THE PHYSICIAN ASSISTANT PRACTICES THE HEALTH OCCUPATION THAT IS REGULATED UNDER THIS ARTICLE BY ANOTHER BOARD AND THE PHYSICIAN ASSISTANT DOES NOT REPRESENT OR IMPLY TO THE PUBLIC BY USE OF THE TITLE "LICENSED PHYSICIAN ASSISTANT", BY OTHER TITLE, OR BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES THAT THE PERSON IS LICENSED AS A PHYSICIAN ASSISTANT IN THE STATE.~~

(2) If the two boards cannot agree on a proposed rule or regulation, the proposal shall be submitted to the Secretary for a final decision.

~~{(i)}~~ Notwithstanding the provisions of this section, a patient being treated regularly for a life-threatening, chronic, degenerative, or disabling condition shall be

seen initially by the supervising physician and as frequently as the patient's condition requires, but no less than within every five appointments or within 180 days, whichever occurs first.†

15–302.

(a) [Subject to the provisions of subsection (i) of this section, the Board may authorize a] **A** physician [to] **MAY** delegate medical acts to a physician assistant only after:

(1) A delegation agreement has been executed and [submitted to] **FILED WITH** the [Committee for review to ensure the delegation agreement contains the requirements of this subtitle; and

(2) Except as provided in § 15–302.1 of this subtitle, the Board has reviewed and approved a favorable recommendation by the Committee that the requirements of this subtitle have been met] **BOARD; AND**

**(2) ANY ADVANCED DUTIES HAVE BEEN AUTHORIZED AS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION.**

(b) The delegation agreement shall contain:

(1) A description of the qualifications of the **PRIMARY** supervising physician and physician assistant;

(2) A description of the settings in which the physician assistant will practice;

(3) A description of the continuous physician supervision mechanisms that are reasonable and appropriate to the practice setting;

(4) A description of the delegated medical acts that are within the **PRIMARY OR ALTERNATE** supervising physician's scope of practice and require specialized education or training that is consistent with accepted medical practice;

(5) An attestation that all medical acts to be delegated to the physician assistant are within the scope of practice of the **PRIMARY OR ALTERNATE** supervising physician and appropriate to the physician assistant's education, training, and level of competence ~~AS DETERMINED BY THE PRIMARY OR ALTERNATE SUPERVISING PHYSICIAN;~~

(6) An attestation of continuous supervision of the physician assistant by the **PRIMARY** supervising physician through the mechanisms described in the delegation agreement;

(7) An attestation by the **PRIMARY** supervising physician of the physician's acceptance of responsibility for any care given by the physician assistant;

(8) A description prepared by the **PRIMARY** supervising physician of the process by which the physician assistant's practice is reviewed appropriate to the practice setting and consistent with current standards of acceptable medical practice;

(9) An attestation by the **PRIMARY** supervising physician that the physician will respond in a timely manner when contacted by the physician assistant; and

(10) Any other information deemed necessary by the Board [or Committee] to carry out the provisions of this subtitle.

~~(e) (1) The delegation agreement shall be [submitted] FILED with the application fee established by the Board and the **PRIMARY** supervising physician and physician assistant shall comply with all other requirements established by the Board in accordance with this title.~~

~~(2) The Board shall set the application fee so as to produce funds to approximate the cost of [reviewing and approving] RECEIVING delegation agreements FILED WITH THE BOARD and any other related services provided.~~

**(C) (1) THE BOARD MAY NOT REQUIRE PRIOR APPROVAL OF A DELEGATION AGREEMENT THAT INCLUDES ADVANCED DUTIES, IF AN ADVANCED DUTY WILL BE PERFORMED IN A HOSPITAL OR AMBULATORY SURGICAL FACILITY, PROVIDED THAT:**

**(I) A PHYSICIAN, WITH CREDENTIALS THAT HAVE BEEN REVIEWED BY THE HOSPITAL OR AMBULATORY SURGICAL FACILITY AS A CONDITION OF EMPLOYMENT, AS AN INDEPENDENT CONTRACTOR, OR AS A MEMBER OF THE MEDICAL STAFF, SUPERVISES THE PHYSICIAN ASSISTANT;**

**(II) THE PHYSICIAN ASSISTANT HAS CREDENTIALS THAT HAVE BEEN REVIEWED BY THE HOSPITAL OR AMBULATORY SURGICAL FACILITY AS A CONDITION OF EMPLOYMENT, AS AN INDEPENDENT CONTRACTOR, OR AS A MEMBER OF THE MEDICAL STAFF; AND**

**(III) EACH ADVANCED DUTY TO BE DELEGATED TO THE PHYSICIAN ASSISTANT IS REVIEWED AND APPROVED WITHIN A PROCESS APPROVED BY THE GOVERNING BODY OF THE HEALTH CARE FACILITY BEFORE THE PHYSICIAN ASSISTANT PERFORMS THE ADVANCED DUTIES.**

**(2) IN ANY SETTING THAT DOES NOT MEET THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION, A PRIMARY SUPERVISING PHYSICIAN**

SHALL OBTAIN THE BOARD'S APPROVAL OF A DELEGATION AGREEMENT THAT INCLUDES ADVANCED DUTIES, BEFORE THE PHYSICIAN ASSISTANT PERFORMS THE ADVANCED DUTIES.

(3) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, A PRIMARY SUPERVISING PHYSICIAN SHALL OBTAIN THE BOARD'S APPROVAL OF A DELEGATION AGREEMENT BEFORE THE PHYSICIAN ASSISTANT MAY ADMINISTER, MONITOR, OR MAINTAIN GENERAL ANESTHESIA OR NEUROAXIAL ANESTHESIA, INCLUDING SPINAL AND EPIDURAL TECHNIQUES, UNDER THE AGREEMENT.

~~†(d) The~~ FOR A DELEGATION AGREEMENT CONTAINING ADVANCED DUTIES THAT REQUIRE BOARD APPROVAL, THE Committee shall review the delegation agreement and recommend to the Board that the delegation agreement be approved, rejected, or modified to ensure conformance with the requirements of this title.

(e) The Committee may conduct a personal interview of the PRIMARY supervising physician and the physician assistant.

(f) (1) On review of the Committee's recommendation regarding a PRIMARY supervising physician's request to delegate ~~medical acts~~ ADVANCED DUTIES as described in a delegation agreement, the Board:

~~(i)~~ (I) May approve the delegation agreement; or

~~(ii)~~ (II)~~(i)~~ 1. If the physician assistant does not meet the applicable education, training, and experience requirements to perform the specified delegated acts, may modify or disapprove the delegation agreement; and

~~(iii)~~ 2. If the Board takes an action under item (i) of this item:

~~1.~~ A. Shall notify the PRIMARY supervising physician and the physician assistant in writing of the particular elements of the proposed delegation agreement that were the cause for the modification or disapproval; and

~~2.~~ B. May not restrict the submission of an amendment to the delegation agreement.~~†~~

(2) TO THE EXTENT PRACTICABLE, THE BOARD SHALL APPROVE A DELEGATION AGREEMENT OR TAKE OTHER ACTION AUTHORIZED UNDER THIS SUBSECTION WITHIN 90 DAYS AFTER RECEIVING A COMPLETED DELEGATION AGREEMENT INCLUDING ANY INFORMATION FROM THE PHYSICIAN ASSISTANT

**AND PRIMARY SUPERVISING PHYSICIAN NECESSARY TO APPROVE OR TAKE ACTION.**

~~[(g)] (D)~~ If the Board determines that a **PRIMARY OR ALTERNATE** supervising physician or physician assistant is practicing in a manner inconsistent with the requirements of this title or Title 14 of this article, the Board ~~on its own initiative or on the recommendation of the Committee]~~ may demand modification of the practice~~],~~ withdraw the approval of the delegation agreement,~~]~~ or take other disciplinary action under § 14-404 or § 15-314 of this article.

[(h) (1) A delegation agreement approved under this subtitle may be reviewed as a component of the certificate renewal process established under § 15-307 of this subtitle.

(2) A delegation agreement shall expire when a physician assistant's certificate expires.

(i) The Board may not authorize a physician to delegate medical acts under a delegation agreement to more than two physician assistants at any one time, except in a hospital or in the following nonhospital settings:

- (1) A correctional facility;
- (2) A detention center; or
- (3) A public health facility.]

**(H) A PRIMARY SUPERVISING PHYSICIAN MAY NOT DELEGATE MEDICAL ACTS UNDER A DELEGATION AGREEMENT TO MORE THAN FOUR PHYSICIAN ASSISTANTS AT ANY ONE TIME, EXCEPT IN A HOSPITAL OR IN THE FOLLOWING NONHOSPITAL SETTINGS:**

- (1) A CORRECTIONAL FACILITY;**
- (2) A DETENTION CENTER; OR**
- (3) A PUBLIC HEALTH FACILITY.**

~~[(j)] (E) (I)~~ A person may not coerce another person to enter into a delegation agreement under this subtitle.

~~[(k)] (J)~~ A physician may supervise a physician assistant:

(1) ~~in~~ **AS A PRIMARY SUPERVISING PHYSICIAN IN** accordance with a delegation agreement approved by the Board under this subtitle; or

(2) As an alternate supervising physician if:

(i) The alternate supervising physician supervises in accordance with a delegation agreement filed with the Board;

(ii) The alternate supervising physician supervises no more than four physician assistants at any one time, except in a hospital, correctional facility, detention center, or public health facility;

(iii) The alternate supervising physician's period of supervision, in the absence of the primary supervising physician, does not exceed:

1. The period of time specified in the delegation agreement; and

2. A period of 45 consecutive days at any one time; and

(iv) The physician assistant performs only those medical acts that:

1. Have been delegated under the delegation agreement filed with the Board; and

2. Are within the scope of practice of the PRIMARY SUPERVISING PHYSICIAN AND alternate supervising physician.

**(K) IN THE EVENT OF A SUDDEN DEPARTURE, INCAPACITY, OR DEATH OF A PRIMARY SUPERVISING PHYSICIAN, A DESIGNATED ALTERNATE SUPERVISING PHYSICIAN MAY ASSUME THE ROLE OF THE PRIMARY SUPERVISING PHYSICIAN BY SUBMITTING A NEW DELEGATION AGREEMENT TO THE BOARD WITHIN 15 DAYS.**

(l) Individual members of the Board are not civilly liable for actions regarding the approval, modification, or disapproval of a delegation agreement described in this section.‡

~~(F)~~ **(M) A PHYSICIAN ASSISTANT MAY PRACTICE IN ACCORDANCE WITH A DELEGATION AGREEMENT FILED WITH THE BOARD UNDER THIS SUBTITLE.**

‡15-302.1.

**(A) IF A DELEGATION AGREEMENT DOES NOT INCLUDE ADVANCED DUTIES OR THE ADVANCED DUTIES HAVE BEEN APPROVED UNDER § 15-302(C)(1) OF THIS SUBTITLE, A PHYSICIAN ASSISTANT MAY ASSUME THE**

**DUTIES UNDER A DELEGATION AGREEMENT ON THE DATE OF RECEIPT BY THE BOARD OF THE DELEGATION AGREEMENT.**

~~(e)~~ **(B)** In this section, “pending” means that a delegation agreement **THAT INCLUDES DELEGATION OF ADVANCED DUTIES IN A SETTING THAT DOES NOT MEET THE REQUIREMENTS UNDER § 15-302(C)(1) OF THIS SUBTITLE** has been executed and submitted to the ~~Committee for review~~ **BOARD FOR ITS APPROVAL**, but:

- (1) The Committee has not made a recommendation to the Board; or
- (2) The Board has not made a final decision regarding the delegation agreement.

~~(b)~~ **(C)** Subject to subsection ~~(e)~~ **(D)** of this section, if a delegation agreement is pending, on receipt of a temporary practice letter from the staff of the Board, a physician assistant may ~~practice in accordance with the pending delegation agreement~~ **PERFORM THE ADVANCED DUTY** if:

- (1) The **PRIMARY** supervising physician has been previously approved to supervise one or more physician assistants in the ~~proposed practice setting for the same scope of practice~~ **PERFORMANCE OF THE ADVANCED DUTY**; and
- (2) The physician assistant has been previously approved ~~for the same scope of practice in a different practice setting~~ **BY THE BOARD TO PERFORM THE ADVANCED DUTY**.

~~(e)~~ **(D)** If the Committee recommends a denial of the pending delegation agreement or the Board denies the pending delegation agreement, on notice to the **PRIMARY SUPERVISING** physician and the physician assistant, the physician assistant may no longer ~~practice in accordance with the delegation agreement~~ **PERFORM THE ADVANCED DUTY THAT HAS NOT RECEIVED THE APPROVAL OF THE BOARD.**‡

**(E) THE BOARD MAY DISAPPROVE ANY DELEGATION AGREEMENT IF IT BELIEVES THAT:**

- (1) THE AGREEMENT DOES NOT MEET THE REQUIREMENTS OF THIS SUBTITLE; OR**
- (2) THE PHYSICIAN ASSISTANT IS UNABLE TO PERFORM SAFELY THE DELEGATED DUTIES.**

**(F) IF THE BOARD DISAPPROVES A DELEGATION AGREEMENT OR THE DELEGATION OF ANY FUNCTION UNDER AN AGREEMENT, THE BOARD SHALL**

PROVIDE THE PRIMARY SUPERVISING PHYSICIAN AND THE PHYSICIAN ASSISTANT WITH WRITTEN NOTICE OF THE DISAPPROVAL.

(G) A PHYSICIAN ASSISTANT WHO RECEIVES NOTICE THAT THE BOARD HAS DISAPPROVED A DELEGATION AGREEMENT OR AN ADVANCED FUNCTION UNDER THE DELEGATION AGREEMENT SHALL IMMEDIATELY CEASE TO PRACTICE UNDER THE AGREEMENT OR TO PERFORM THE DISAPPROVED FUNCTION.

~~{15-302.2.} 15-302.1.~~

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

~~(2) "PERSONALLY PREPARE AND DISPENSE" MEANS THAT A PHYSICIAN ASSISTANT:~~

~~(I) IS PHYSICALLY PRESENT ON THE PREMISES WHERE THE PRESCRIPTION IS FILLED; AND~~

~~(II) PERFORMS A FINAL CHECK OF THE PRESCRIPTION BEFORE IT IS PROVIDED TO THE PATIENT.~~

~~(3) "STARTER DOSAGE" MEANS AN AMOUNT OF A DRUG SUFFICIENT TO BEGIN THERAPY:~~

~~(I) OF SHORT DURATION OF 72 HOURS OR LESS; OR~~

~~(II) PRIOR TO OBTAINING A LARGER QUANTITY OF THE DRUG TO COMPLETE THERAPY.~~

~~{(a)} (B)~~ A PRIMARY supervising physician may not delegate prescribing, DISPENSING, and administering of controlled dangerous substances, prescription drugs, or medical devices unless the PRIMARY supervising physician and physician assistant include in the delegation agreement:

(1) A notice of intent to delegate prescribing of controlled dangerous substances, prescription drugs, or medical devices;

(2) An attestation that all prescribing activities of the physician assistant will comply with applicable federal and State regulations;

(3) An attestation that all medical charts or records will contain a notation of any prescriptions written by a physician assistant in accordance with this section; ~~AND~~

(4) An attestation that all prescriptions written under this section will include the physician assistant's name and the supervising physician's name, business address, and business telephone number legibly written or printed;

(5) ~~Evidence demonstrating~~ **AN ATTESTATION THAT THE PHYSICIAN ASSISTANT HAS:**

(i) ~~Passage of~~ **PASSED** the physician assistant national certification exam administered by the National Commission on the Certification of Physician Assistants within the previous 2 years; or

(ii) ~~Successful completion of~~ **SUCCESSFULLY COMPLETED** 8 category 1 hours of pharmacology education within the previous 2 years; and

(6) ~~Evidence demonstrating~~ **AN ATTESTATION THAT THE PHYSICIAN ASSISTANT HAS:**

(i) A bachelor's degree or its equivalent; **OR**

(ii) **SUCCESSFULLY COMPLETED** 2 years of work experience as a physician assistant; ~~or~~

(iii) ~~Prior approval by the Board of a delegation agreement, including approval for writing medication orders].~~

~~[(b)] (c)~~ (1) A **PRIMARY OR ALTERNATE** supervising physician may not delegate the prescribing of substances that are identified as Schedule I controlled dangerous substances under § 5-402 of the Criminal Law Article.

**(2) A PRIMARY ~~OR ALTERNATE~~ SUPERVISING PHYSICIAN MAY DELEGATE THE PRESCRIBING OF SUBSTANCES THAT ARE IDENTIFIED AS SCHEDULES II THROUGH V CONTROLLED DANGEROUS SUBSTANCES UNDER § 5-402 OF THE CRIMINAL LAW ARTICLE, INCLUDING LEGEND DRUGS AS DEFINED UNDER § 503(B) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.**

~~[(2)] (3)~~ A **PRIMARY OR ALTERNATE** supervising physician may not delegate the prescribing of controlled dangerous substances to a physician assistant unless the physician assistant has a valid:

(i) State controlled dangerous substance registration; and

(ii) Federal Drug Enforcement Agency (DEA) registration.

~~(D)~~ (C) A PHYSICIAN ASSISTANT PERSONALLY MAY ~~PREPARE AND DISPENSE A STARTER DOSAGE OR DISPENSE DRUG SAMPLES~~ OF ANY DRUG THE PHYSICIAN ASSISTANT IS AUTHORIZED TO PRESCRIBE TO A PATIENT OF THE PHYSICIAN ASSISTANT IF:

(1) ~~(I)~~ PHARMACY SERVICES ARE NOT REASONABLY AVAILABLE;

~~(II)~~ IT IS IN THE BEST INTERESTS OF THE PATIENT; OR

~~(III)~~ IT IS AN EMERGENCY;

~~(2)~~ THE STARTER DOSAGE OR DRUG SAMPLE COMPLIES WITH THE LABELING REQUIREMENTS OF ~~§ 12-509~~ § 12-505 OF THIS ARTICLE;

~~(3)~~ (2) NO CHARGE IS MADE FOR THE STARTER DOSAGE; AND

~~(4)~~ (3) THE PHYSICIAN ASSISTANT ENTERS AN APPROPRIATE RECORD IN THE PATIENT'S MEDICAL RECORD.

~~(E)~~ (D) A PHYSICIAN ASSISTANT WHO PERSONALLY ~~PREPARES AND DISPENSES A DRUG SAMPLE OR STARTER DOSAGE~~ IN THE COURSE OF TREATING A PATIENT AS AUTHORIZED UNDER SUBSECTION ~~(B)~~ (C) OF THIS SECTION SHALL COMPLY WITH THE REQUIREMENTS UNDER TITLES 12 AND 14 OF THIS ARTICLE AND APPLICABLE FEDERAL LAW AND REGULATIONS.

~~(F)~~ (E) BEFORE A PHYSICIAN ASSISTANT MAY RENEW A LICENSE FOR AN ADDITIONAL 2-YEAR TERM UNDER § 15-307 OF THIS SUBTITLE, THE PHYSICIAN ASSISTANT SHALL SUBMIT EVIDENCE TO THE BOARD OF SUCCESSFUL COMPLETION OF 8 CATEGORY 1 HOURS OF PHARMACOLOGY EDUCATION WITHIN THE PREVIOUS 2 YEARS.

15-302.3.

(a) On a quarterly basis, the Board shall provide to the Board of Pharmacy a list of physician assistants whose delegation agreements include the delegation of [authority to exercise] prescriptive authority.

(b) The list required under subsection (a) of this section shall specify whether each physician assistant has been delegated the authority to prescribe controlled dangerous substances, prescription drugs, or medical devices.

(c) If a PRIMARY supervising physician who has delegated authority to exercise prescriptive authority to a physician assistant subsequently restricts or

removes the delegation, the **PRIMARY** supervising physician shall notify the Board of the restriction or removal within 5 business days.

15-303.

(a) To qualify for a [certificate] **LICENSE**, an applicant shall ~~be~~:

(1) ~~Of~~ **BE OF** good moral character;

(2) ~~Fluent in the English language~~ **DEMONSTRATE ORAL AND WRITTEN COMPETENCY IN THE ENGLISH LANGUAGE AS REQUIRED BY THE BOARD;**

(3) ~~At~~ **BE AT** least 18 years old; and

(4) ~~A~~ **(I) BE A** graduate of a physician assistant ~~[training]~~ **EDUCATIONAL** program ~~[approved by the Board]~~ **ACCREDITED BY THE ACCREDITATION REVIEW COMMISSION ON EDUCATION FOR THE PHYSICIAN ASSISTANT OR, ON OR BEFORE DECEMBER 31, 2000, ACCREDITED BY THE COMMITTEE ON ALLIED HEALTH EDUCATION AND ACCREDITATION OR THE COMMISSION ON ACCREDITATION OF ALLIED HEALTH EDUCATION PROGRAMS ; OR**

**(II) HAVE PASSED THE PHYSICIAN ASSISTANT NATIONAL CERTIFYING EXAMINATION ADMINISTERED BY THE NATIONAL COMMISSION ON CERTIFICATION OF PHYSICIAN ASSISTANTS PRIOR TO 1986, MAINTAINED ALL CONTINUING EDUCATION AND RECERTIFICATION REQUIREMENTS, AND BEEN IN CONTINUOUS PRACTICE SINCE PASSAGE OF THE EXAMINATION.**

(b) ~~[Except as otherwise provided in this title, the]~~ ~~THE~~ applicant shall pass ~~[a national certifying examination approved by the Board]~~ **THE PHYSICIAN ASSISTANT NATIONAL CERTIFYING EXAMINATION ADMINISTERED BY THE NATIONAL COMMISSION ON CERTIFICATION OF PHYSICIAN ASSISTANTS.**

(c) An applicant who graduates from a physician assistant training program after October 1, 2003 shall have a bachelor's degree or its equivalent.

[(d) The Board shall adopt regulations governing the issuance of temporary certificates to applicants who:

(1) Have met all other requirements of this section; but

(2) Have not yet passed the national certifying examination.]

~~(D) THE BOARD MAY GRANT A LICENSE TO AN APPLICANT WHO DOES NOT MEET THE EDUCATIONAL REQUIREMENTS OF SUBSECTION (A)(4) OF THIS SECTION BUT WHO PASSED THE PHYSICIAN ASSISTANT NATIONAL CERTIFYING EXAMINATION ADMINISTERED BY THE NATIONAL COMMISSION ON CERTIFICATION OF PHYSICIAN ASSISTANTS BEFORE 1986 AND HAS COMPLETED ALL CONTINUING EDUCATION AND RENEWAL OF CERTIFICATION REQUIREMENTS.~~

15-304.

An applicant for a [certificate] LICENSE shall:

- (1) Submit an application to the Board on the form that the Board requires; and
- (2) Pay to the Board the application fee set by the Board.

~~15-305.~~

~~(a) If an applicant qualifies for a [certificate] LICENSE under this subtitle, the Board shall send the applicant a notice that specifies that:~~

- ~~(1) The applicant has qualified for a [certificate] LICENSE; and~~
- ~~(2) On receipt of the [certificate] LICENSE fee set by the Board, the Board will issue a [certificate] LICENSE to the applicant.~~

~~(b) On payment of the [certificate] LICENSE fee, the Board shall issue a [certificate] LICENSE to any applicant who meets the requirements of this subtitle.~~

~~(c) The Board shall include on each [certificate] LICENSE that the Board issues:~~

- ~~(1) The full name of the [certificate holder] LICENSEE;~~
- ~~(2) A serial number assigned by the Board to the [certificate holder] LICENSEE; and~~
- ~~(3) The signature of the Secretary under seal of the Board.~~

15-305.

THE BOARD SHALL ISSUE A LICENSE TO AN APPLICANT WHO MEETS THE REQUIREMENTS OF THIS TITLE.

15-306.

A [certificate] LICENSE authorizes the [certificate holder] LICENSEE to practice as a physician assistant UNDER A DELEGATION AGREEMENT while the [certificate] LICENSE is effective.

15-307.

(a) (1) Unless a [certificate] LICENSE is renewed for an additional term as provided in this section, the [certificate] LICENSE expires on the date set by the Board.

(2) A [certificate] LICENSE may not be renewed for a term longer than 2 years.

(b) At least 1 month before a [certificate] LICENSE expires, the Board shall send to the [certificate holder] LICENSEE, by first-class mail to the last known address of the [certificate holder] LICENSEE, a renewal notice that states:

(1) The date on which the current [certificate] LICENSE expires;

(2) The date by which the Board must receive the renewal application for the renewal to be issued and mailed before the [certificate] LICENSE expires; and

(3) The amount of the renewal fee.

(c) Before a [certificate] LICENSE expires, the [certificate holder] LICENSEE periodically may renew it for an additional 2-year term, if the [certificate holder] LICENSEE:

(1) Is otherwise entitled to be issued a [certificate] LICENSE;

(2) Pays to the Board the renewal fee, set by the Board; ~~and~~

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires;

and

(ii) Satisfactory evidence of compliance with the continuing education requirements for [certificate] LICENSE renewal set by the Board under this section; **AND**

**(4) MEETS ANY ADDITIONAL REQUIREMENTS SET BY THE BOARD FOR RENEWAL OF A LICENSE.**

(d) [(1)] In addition to any other qualifications and requirements established by the Board, the Board shall establish continuing education requirements as a condition for the renewal of [certificates] **LICENSES** under this section.

[(2)] In establishing the continuing education requirements under paragraph (1) of this subsection, the Board shall include a requirement for a course on the special care needs of terminally ill individuals and their families which shall include topics related to:

- (i) Pain and symptom management;
- (ii) The psycho-social dynamics of death;
- (iii) Dying and bereavement; and
- (iv) Hospice care.]

(e) The Board shall renew the [certificate] **LICENSE** of each [certificate holder ] **LICENSEE** who meets the requirements of this section.

**(F) FOR THE FAILURE OF A LICENSEE TO OBTAIN CONTINUING MEDICAL EDUCATION CREDITS AS REQUIRED BY THE BOARD, THE BOARD MAY IMPOSE A CIVIL PENALTY NOT TO EXCEED \$100 FOR EACH MEDICAL EDUCATION CREDIT NOT OBTAINED BY THE LICENSEE.**

15-308.

The Board, in accordance with its regulations, shall reinstate the [certificate] **LICENSE** of a physician assistant who has failed to renew the [certificate] **LICENSE** for any reason if the physician assistant:

- (1) Meets the renewal requirements of § 15-307 of this subtitle;
- (2) Pays to the Board the reinstatement fee set by the Board; ~~and~~
- (3) Submits to the Board satisfactory evidence of compliance with the qualifications and requirements established under this subtitle for [certificate] **LICENSE** reinstatements; **AND**

**(4) MEETS ANY ADDITIONAL REQUIREMENTS SET BY THE BOARD FOR REINSTATEMENT.**

~~15-308.1.~~

~~(A) THE BOARD MAY PLACE A LICENSEE ON INACTIVE STATUS, IF THE LICENSEE SUBMITS TO THE BOARD:~~

~~(1) AN APPLICATION FOR INACTIVE STATUS ON THE FORM REQUIRED BY THE BOARD; AND~~

~~(2) THE INACTIVE STATUS FEE SET BY THE BOARD.~~

~~(B) THE BOARD SHALL ISSUE A LICENSE TO AN INDIVIDUAL WHO IS ON INACTIVE STATUS IF THE INDIVIDUAL:~~

~~(1) SUBMITS TO THE BOARD:~~

~~(I) SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE CONTINUING EDUCATION REQUIREMENTS THE BOARD ADOPTS FOR THIS PURPOSE; AND~~

~~(II) A REINSTATEMENT FEE SET BY THE BOARD; AND~~

~~(2) IS OTHERWISE ENTITLED TO BE LICENSED.~~

15-309.

(a) Each [certificate holder] LICENSEE shall [produce] KEEP a [valid certificate and delegation agreement when requested to do so by an existing or potential employer or client] LICENSE AND DELEGATION AGREEMENT FOR INSPECTION AT THE PRIMARY PLACE OF BUSINESS OF THE LICENSEE.

(b) (1) Each [certificate holder] LICENSEE shall give the Board written notice of any change of NAME OR address WITHIN 60 DAYS OF THE DATE OF THE CHANGE.

(2) A LICENSEE WHO FAILS TO COMPLY WITH THIS SUBSECTION IS SUBJECT TO AN ADMINISTRATIVE PENALTY OF \$100.

15-310.

(a) In reviewing an application for [certification] LICENSURE or in investigating an allegation brought under § 15-314 of this subtitle, the [Committee] ~~PHYSICIAN ASSISTANT REHABILITATION PROGRAM~~ may request the Board to direct, or the Board on its own initiative may direct the physician assistant to submit to an appropriate examination.

(b) In return for the privilege given to the physician assistant to perform delegated medical acts in the State, the physician assistant is deemed to have:

(1) Consented to submit to an examination under this section, if requested by the Board in writing; and

(2) Waived any claim of privilege as to the testimony or examination reports.

(c) The unreasonable failure or refusal of the **LICENSED** physician assistant **OR APPLICANT** to submit to an examination is [grounds] **PRIMA FACIE EVIDENCE OF THE LICENSED PHYSICIAN ASSISTANT'S INABILITY TO PERFORM DELEGATED MEDICAL ACTS AND IS CAUSE** for denial of the application or immediate suspension of the [certification] **LICENSE**, ~~UNLESS THE BOARD FINDS THAT THE FAILURE OR REFUSAL WAS BEYOND THE CONTROL OF THE LICENSED PHYSICIAN ASSISTANT.~~

(d) The Board shall pay the costs of any examination made under this section.

(e) [(1) (i)] The Board shall assess each applicant for a [certificate] **LICENSE** or the renewal of a [certificate] **LICENSE** to practice as a physician assistant, a fee set by the Board[.

(ii) The fee shall be] sufficient to fund the activities of the [entity or entities with whom the Board contracts under § 14-401(e)] **BOARD'S REHABILITATION PROGRAM UNDER § 14-401(G)** of this article in conducting a physician assistant rehabilitation program.

[(iii) The fee shall be set by the Secretary each year after the submission by the entity or entities with whom the Board contracts under § 14-401(e) of this article to the Board of the annual budget for the Physician Assistant Rehabilitation Program.

(2) As provided under § 2-1220 of the State Government Article, the Legislative Auditor, every 2 years, shall audit the accounts and transactions of the entity or entities with whom the Board contracts under § 14-401(e) of this article in conducting the Physician Assistant Rehabilitation Program.]

15-311.

Subject to the hearing provisions of § 15-313 of this subtitle, the Board, on the affirmative vote of a majority of ~~its members then serving~~ **A QUORUM**, may deny a [certificate] **LICENSE** to any applicant for:

(1) ~~Failure to meet the qualifications for [certification] LICENSE;~~

~~(2)~~ ~~Any~~ ANY of the reasons that are grounds for disciplinary action under § 15–314 of this subtitle.

15–312.

(a) Unless the Board agrees to accept the surrender of a [certification] **LICENSE** of A physician assistant, the physician assistant may not surrender the [certification] **LICENSE** nor may the [certification] **LICENSURE** lapse by operation of law while the physician assistant is under investigation or while charges are pending.

(b) The Board may set conditions on its agreement to accept surrender of a [certification] **LICENSE**.

15–313.

(a) (1) Except as otherwise provided under § 10–226 of the State Government Article, before the Board takes any action to deny a [certificate or to reject or modify a delegation agreement] **LICENSE OR TO REJECT OR MODIFY A DELEGATION AGREEMENT OR ADVANCED DUTY**, the Board shall give the applicant or [certificate holder] **LICENSEE** the opportunity for a hearing before the Board.

(2) The Board shall give notice and hold the hearing under Title 10, Subtitle 2 of the State Government Article.

(3) The Board may administer oaths in connection with any proceeding under this section.

(4) At least 14 days before the hearing, the hearing notice shall be sent to the last known address of the applicant or [certificate holder] **LICENSEE**.

(b) Any applicant aggrieved under this subtitle by a final decision of the Board denying a [certificate or denying or modifying a delegation agreement] **LICENSE OR REJECTING OR MODIFYING A DELEGATION AGREEMENT OR ADVANCED DUTY** may:

(1) Appeal that decision to the Board of Review; and

(2) Then take any further appeal allowed under Title 10, Subtitle 2 of the State Government Article.

~~15–314.~~

~~Subject to the hearing provisions of § 15–315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may reprimand any [certificate holder] **LICENSEE**, **LIMIT OR OTHERWISE RESTRICT A LICENSE**,~~

~~IMPOSE CORRECTIVE MEASURES ON A LICENSEE, or suspend or revoke a [certificate] LICENSE if the [certificate holder] LICENSEE:~~

~~(1) Fraudulently or deceptively obtains or attempts to obtain a [certificate] LICENSE for the applicant or [certificate holder] LICENSEE or for another individual;~~

~~(2) Fraudulently or deceptively uses a [certificate] LICENSE;~~

~~(3) Violates any provision of this title or any regulations adopted under this title [or], commits any act which could serve as the basis for disciplinary action against a [physician] PERSON WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED TO PRACTICE A HEALTH OCCUPATION under [§ 14-404 of] this article, OR A STIPULATION OR AGREEMENT OF THE BOARD;~~

~~(4) [Performs delegated medical acts beyond the scope of the certificate not within a delegation agreement approved by the Board;~~

~~(5)] Performs delegated medical acts without the supervision of a physician;~~

~~(5) IS CONVICTED OF A FELONY;~~

~~(6) IS HABITUALLY INTOXICATED;~~

~~(7) IS ADDICTED TO, OR HABITUALLY ABUSES, ANY NARCOTIC OR CONTROLLED DANGEROUS SUBSTANCE, AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE, OR OTHER DRUG THAT IS IN EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL INDICATION;~~

~~(8) HAS BEEN ADJUDICATED AS MENTALLY INCOMPETENT;~~

~~(9) IS PHYSICALLY OR MENTALLY UNABLE TO ENGAGE SAFELY IN PRACTICE AS A PHYSICIAN ASSISTANT;~~

~~(10) DEMONSTRATES PROFESSIONAL INCOMPETENCE;~~

~~(11) VIOLATES PATIENT CONFIDENTIALITY, EXCEPT AS OTHERWISE REQUIRED OR PERMITTED BY LAW;~~

~~(12) ENGAGES IN CONDUCT INTENDED TO OR WITH A SUBSTANTIAL LIKELIHOOD TO DECEIVE, DEFRAUD, OR HARM THE PUBLIC;~~

~~(13) ENGAGES IN UNPROFESSIONAL OR IMMORAL CONDUCT IN THE PRACTICE OF MEDICINE;~~

~~(14) PRESCRIBES, SELLS, ADMINISTERS, DISTRIBUTES, ORDERS, OR GIVES AWAY ANY DRUG CLASSIFIED AS A CONTROLLED DANGEROUS SUBSTANCE FOR OTHER THAN MEDICALLY ACCEPTED THERAPEUTIC PURPOSES;~~

~~(15) HAS COMMITTED AN ACT OF MORAL TURPITUDE;~~

~~(16) IS DISCIPLINED BY A LICENSING OR DISCIPLINARY AUTHORITY OF ANY STATE OR COUNTRY FOR AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THIS SECTION;~~

~~(17) FAILS TO COOPERATE WITH AN INVESTIGATION CONDUCTED BY THE BOARD;~~

~~(18) REPRESENTS THAT THE PERSON IS A PHYSICIAN;~~

~~[(6)] (19) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the [certificate holder] LICENSEE is [certified] LICENSED and qualified to render because the individual is HIV positive;~~

~~[(7)] (20) Except in an emergency life threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease [Control's] CONTROL AND PREVENTION'S guidelines on universal precautions; or~~

~~[(8)] (21) Is in breach of a service obligation resulting from the applicant's or [certificate holder's] LICENSEE'S receipt of State or federal funding for the applicant's or [certificate holder's] LICENSEE'S physician assistant education.~~

#### 15-314.

(A) SUBJECT TO THE HEARING PROVISIONS OF § 15-315 OF THIS SUBTITLE, THE BOARD, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF THE QUORUM, MAY REPRIMAND ANY PHYSICIAN ASSISTANT, PLACE ANY PHYSICIAN ASSISTANT ON PROBATION, OR SUSPEND OR REVOKE A LICENSE IF THE PHYSICIAN ASSISTANT:

(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A LICENSE FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER;

(2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

(3) IS GUILTY OF:

- (I) IMMORAL CONDUCT IN THE PRACTICE OF MEDICINE; OR
- (II) UNPROFESSIONAL CONDUCT IN THE PRACTICE OF MEDICINE;
- (4) IS PROFESSIONALLY, PHYSICALLY, OR MENTALLY INCOMPETENT;
- (5) SOLICITS OR ADVERTISES IN VIOLATION OF § 14-503 OF THIS ~~TITLE~~ ARTICLE;
- (6) ABANDONS A PATIENT;
- (7) HABITUALLY IS INTOXICATED;
- (8) IS ADDICTED TO, OR HABITUALLY ABUSES, ANY NARCOTIC OR CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE;
- (9) PROVIDES PROFESSIONAL SERVICES:
  - (I) WHILE UNDER THE INFLUENCE OF ALCOHOL; OR
  - (II) WHILE USING ANY NARCOTIC OR CONTROLLED DANGEROUS SUBSTANCE, AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE, OR OTHER DRUG THAT IS IN EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL INDICATION;
- (10) PROMOTES THE SALE OF DRUGS, DEVICES, APPLIANCES, OR GOODS TO A PATIENT SO AS TO EXPLOIT THE PATIENT FOR FINANCIAL GAIN;
- (11) WILLFULLY MAKES OR FILES A FALSE REPORT OR RECORD IN THE PRACTICE OF MEDICINE;
- (12) WILLFULLY FAILS TO FILE OR RECORD ANY MEDICAL REPORT AS REQUIRED UNDER LAW, WILLFULLY IMPEDES OR OBSTRUCTS THE FILING OR RECORDING OF THE REPORT, OR INDUCES ANOTHER TO FAIL TO FILE OR RECORD THE REPORT;
- (13) ON PROPER REQUEST, AND IN ACCORDANCE WITH THE PROVISIONS OF TITLE 4, SUBTITLE 3 OF THE HEALTH – GENERAL ARTICLE, FAILS TO PROVIDE DETAILS OF A PATIENT’S MEDICAL RECORD TO THE PATIENT, ANOTHER PHYSICIAN, OR HOSPITAL;

(14) SOLICITS PROFESSIONAL PATRONAGE THROUGH AN AGENT OR OTHER PERSON OR PROFITS FROM THE ACTS OF A PERSON WHO IS REPRESENTED AS AN AGENT OF THE PHYSICIAN;

(15) PAYS OR AGREES TO PAY ANY SUM TO ANY PERSON FOR BRINGING OR REFERRING A PATIENT OR ACCEPTS OR AGREES TO ACCEPT ANY SUM FROM ANY PERSON FOR BRINGING OR REFERRING A PATIENT;

(16) AGREES WITH A CLINICAL OR BIOANALYTICAL LABORATORY TO MAKE PAYMENTS TO THE LABORATORY FOR A TEST OR TEST SERIES FOR A PATIENT, UNLESS THE LICENSED PHYSICIAN ASSISTANT DISCLOSES ON THE BILL TO THE PATIENT OR THIRD-PARTY PAYOR:

(I) THE NAME OF THE LABORATORY;

(II) THE AMOUNT PAID TO THE LABORATORY FOR THE TEST OR TEST SERIES; AND

(III) THE AMOUNT OF PROCUREMENT OR PROCESSING CHARGE OF THE LICENSED PHYSICIAN, IF ANY, FOR EACH SPECIMEN TAKEN;

(17) MAKES A WILLFUL MISREPRESENTATION IN TREATMENT;

(18) PRACTICES MEDICINE WITH AN UNAUTHORIZED PERSON OR AIDS AN UNAUTHORIZED PERSON IN THE PRACTICE OF MEDICINE;

(19) GROSSLY OVERUTILIZES HEALTH CARE SERVICES;

(20) OFFERS, UNDERTAKES, OR AGREES TO CURE OR TREAT DISEASE BY A SECRET METHOD, TREATMENT, OR MEDICINE;

(21) IS DISCIPLINED BY A LICENSING OR DISCIPLINARY AUTHORITY OR CONVICTED OR DISCIPLINED BY A COURT OF ANY STATE OR COUNTRY OR DISCIPLINED BY ANY BRANCH OF THE UNITED STATES UNIFORMED SERVICES OR THE VETERANS' ADMINISTRATION FOR AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THIS SECTION;

(22) FAILS TO MEET APPROPRIATE STANDARDS FOR THE DELIVERY OF QUALITY MEDICAL AND SURGICAL CARE PERFORMED IN AN OUTPATIENT SURGICAL FACILITY, OFFICE, HOSPITAL, OR ANY OTHER LOCATION IN THIS STATE;

(23) WILLFULLY SUBMITS FALSE STATEMENTS TO COLLECT FEES FOR WHICH SERVICES ARE NOT PROVIDED;

(24) WAS SUBJECT TO INVESTIGATION OR DISCIPLINARY ACTION BY A LICENSING OR DISCIPLINARY AUTHORITY OR BY A COURT OF ANY STATE OR COUNTRY FOR AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THIS SECTION AND THE LICENSEE:

(I) SURRENDERED THE LICENSE ISSUED BY THE STATE OR COUNTRY TO THE STATE OR COUNTRY; OR

(II) ALLOWED THE LICENSE ISSUED BY THE STATE OR COUNTRY TO EXPIRE OR LAPSE;

(25) KNOWINGLY FAILS TO REPORT SUSPECTED CHILD ABUSE IN VIOLATION OF § 5-704 OF THE FAMILY LAW ARTICLE;

(26) FAILS TO EDUCATE A PATIENT BEING TREATED FOR BREAST CANCER OF ALTERNATIVE METHODS OF TREATMENT AS REQUIRED BY § 20-113 OF THE HEALTH – GENERAL ARTICLE;

(27) SELLS, PRESCRIBES, GIVES AWAY, OR ADMINISTERS DRUGS FOR ILLEGAL OR ILLEGITIMATE MEDICAL PURPOSES;

(28) FAILS TO COMPLY WITH THE PROVISIONS OF § 12-102 OF THIS ARTICLE;

(29) REFUSES, WITHHOLDS FROM, DENIES, OR DISCRIMINATES AGAINST AN INDIVIDUAL WITH REGARD TO THE PROVISION OF PROFESSIONAL SERVICES FOR WHICH THE PHYSICIAN ASSISTANT IS LICENSED AND QUALIFIED TO RENDER BECAUSE THE INDIVIDUAL IS HIV POSITIVE;

(30) EXCEPT AS TO AN ASSOCIATION THAT HAS REMAINED IN CONTINUOUS EXISTENCE SINCE JULY 1, 1963:

(I) ASSOCIATES WITH A PHARMACIST AS A PARTNER OR CO-OWNER OF A PHARMACY FOR THE PURPOSE OF OPERATING A PHARMACY;

(II) EMPLOYS A PHARMACIST FOR THE PURPOSE OF OPERATING A PHARMACY; OR

(III) CONTRACTS WITH A PHARMACIST FOR THE PURPOSE OF OPERATING A PHARMACY;

(31) EXCEPT IN AN EMERGENCY LIFE-THREATENING SITUATION WHERE IT IS NOT FEASIBLE OR PRACTICABLE, FAILS TO COMPLY WITH THE

CENTERS FOR DISEASE CONTROL AND PREVENTION'S GUIDELINES ON UNIVERSAL PRECAUTIONS;

(32) FAILS TO DISPLAY THE NOTICE REQUIRED UNDER § 14-415 OF THIS ~~SUBTITLE~~ ARTICLE;

(33) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED BY THE BOARD;

(34) IS CONVICTED OF INSURANCE FRAUD AS DEFINED IN § 27-801 OF THE INSURANCE ARTICLE;

(35) IS IN BREACH OF A SERVICE OBLIGATION RESULTING FROM THE APPLICANT'S OR LICENSEE'S RECEIPT OF STATE OR FEDERAL FUNDING FOR THE PHYSICIAN ASSISTANT'S MEDICAL EDUCATION;

(36) WILLFULLY MAKES A FALSE REPRESENTATION WHEN SEEKING OR MAKING APPLICATION FOR LICENSURE OR ANY OTHER APPLICATION RELATED TO THE PRACTICE OF MEDICINE;

(37) BY CORRUPT MEANS, THREATS, OR FORCE, INTIMIDATES OR INFLUENCES, OR ATTEMPTS TO INTIMIDATE OR INFLUENCE, FOR THE PURPOSE OF CAUSING ANY PERSON TO WITHHOLD OR CHANGE TESTIMONY IN HEARINGS OR PROCEEDINGS BEFORE THE BOARD OR THOSE OTHERWISE DELEGATED TO THE OFFICE OF ADMINISTRATIVE HEARINGS;

(38) BY CORRUPT MEANS, THREATS, OR FORCE, HINDERS, PREVENTS, OR OTHERWISE DELAYS ANY PERSON FROM MAKING INFORMATION AVAILABLE TO THE BOARD IN FURTHERANCE OF ANY INVESTIGATION OF THE BOARD;

(39) INTENTIONALLY MISREPRESENTS CREDENTIALS FOR THE PURPOSE OF TESTIFYING OR RENDERING AN EXPERT OPINION IN HEARINGS OR PROCEEDINGS BEFORE THE BOARD OR THOSE OTHERWISE DELEGATED TO THE OFFICE OF ADMINISTRATIVE HEARINGS;

(40) FAILS TO KEEP ADEQUATE MEDICAL RECORDS;

(41) PERFORMS DELEGATED MEDICAL ACTS BEYOND THE SCOPE OF THE DELEGATION AGREEMENT FILED WITH THE BOARD OR AFTER NOTIFICATION FROM THE BOARD THAT AN ADVANCED DUTY HAS BEEN DISAPPROVED; OR

**(42) PERFORMS DELEGATED MEDICAL ACTS WITHOUT THE SUPERVISION OF A PHYSICIAN.**

**(B) (1) ON THE FILING OF CERTIFIED DOCKET ENTRIES WITH THE BOARD BY THE OFFICE OF THE ATTORNEY GENERAL, THE BOARD SHALL ORDER THE SUSPENSION OF A LICENSE IF THE PHYSICIAN ASSISTANT IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE WITH RESPECT TO A CRIME INVOLVING MORAL TURPITUDE, WHETHER OR NOT ANY APPEAL OR OTHER PROCEEDING IS PENDING TO HAVE THE CONVICTION OR PLEA SET ASIDE.**

**(2) AFTER COMPLETION OF THE APPELLATE PROCESS IF THE CONVICTION HAS NOT BEEN REVERSED OR THE PLEA HAS NOT BEEN SET ASIDE WITH RESPECT TO A CRIME INVOLVING MORAL TURPITUDE, THE BOARD SHALL ORDER THE REVOCATION OF A LICENSE ON THE CERTIFICATION BY THE OFFICE OF THE ATTORNEY GENERAL.**

15-315.

(a) (1) Except as otherwise provided under § 10-226 of the State Government Article, before the Board takes any action under ~~§ 15-314~~ **§ 15-314(A)** of this subtitle, the Board shall give the individual against whom the action is contemplated an opportunity for a hearing before a hearing officer.

(2) The hearing officer shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(3) The Board may administer oaths in connection with any proceeding under this section.

(4) At least 14 days before the hearing, the hearing notice required under this subtitle shall be sent by certified mail to the last known address of the individual.

(b) (1) Any [certificate holder] **LICENSEE** who is aggrieved by a final decision of the Board under this subtitle may not appeal to the Board of Review but may take a direct judicial appeal.

(2) The appeal shall be as provided for judicial review of the final decision in Title 10, Subtitle 2 of the State Government Article.

(c) An order of the Board under this subtitle may not be stayed pending review.

(d) All of the findings and orders of the Board that relate to physician assistants are subject to the provisions of Title 14, Subtitle 4 of this article.

15-316.

~~(A) A PHYSICIAN ASSISTANT WHO IS LICENSED IN THIS STATE OR AUTHORIZED TO PRACTICE IN ANY OTHER STATE OR WHO IS CREDENTIALLED AS A PHYSICIAN ASSISTANT BY A FEDERAL EMPLOYER WHO RESPONDS TO A NEED FOR MEDICAL CARE IN AN EMERGENCY OR A STATE OR LOCAL DISASTER MAY PERFORM A MEDICAL ACT WITHOUT SUPERVISION OR WITH ANY SUPERVISION THAT IS AVAILABLE.~~

~~(B) A PHYSICIAN WHO SUPERVISES A PHYSICIAN ASSISTANT WHO PERFORMS A MEDICAL ACT IN RESPONSE TO AN EMERGENCY OR A STATE OR LOCAL DISASTER IS NOT REQUIRED TO MEET THE REQUIREMENTS FOR A PRIMARY OR ALTERNATE SUPERVISING PHYSICIAN UNDER THIS TITLE.~~

(A) IF AFTER A HEARING UNDER § 15-315 OF THIS SUBTITLE, THE BOARD FINDS THAT THERE ARE GROUNDS FOR DISCIPLINE UNDER § 15-314(A) OF THIS SUBTITLE TO SUSPEND OR REVOKE A LICENSE OF A PHYSICIAN ASSISTANT OR TO DENY A LICENSE TO AN APPLICANT OR TO REPRIMAND A LICENSED PHYSICIAN ASSISTANT, THE BOARD MAY IMPOSE A FINE SUBJECT TO THE BOARD'S REGULATIONS INSTEAD OF OR IN ADDITION TO SUSPENDING OR REVOKING THE LICENSE OR REPRIMANDING THE LICENSEE.

(B) THE BOARD SHALL PAY ANY FINES COLLECTED UNDER THIS SECTION INTO THE GENERAL FUND OF THE STATE.

15-317.

(A) A PHYSICIAN ASSISTANT IN THIS STATE OR IN ANY OTHER STATE IS AUTHORIZED TO PERFORM ACTS, TASKS, OR FUNCTIONS AS A PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THE STATE DURING A DISASTER AS DEFINED BY THE GOVERNOR, WITHIN A COUNTY IN WHICH A STATE OF DISASTER HAS BEEN DECLARED, OR COUNTIES CONTIGUOUS TO A COUNTY IN WHICH A STATE OF DISASTER HAS BEEN DECLARED.

(B) THE PHYSICIAN ASSISTANT SHALL NOTIFY THE BOARD IN WRITING OF THE NAMES, PRACTICE LOCATIONS, AND TELEPHONE NUMBERS FOR THE PHYSICIAN ASSISTANT AND EACH PRIMARY SUPERVISING PHYSICIAN WITHIN 30 DAYS OF THE FIRST PERFORMANCE OF MEDICAL ACTS, TASKS, OR FUNCTIONS AS A PHYSICIAN ASSISTANT DURING THE DISASTER.

(C) A TEAM OF ~~PHYSICIAN~~ PHYSICIANS AND PHYSICIAN ASSISTANTS OR PHYSICIAN ASSISTANTS PRACTICING UNDER THIS SECTION MAY NOT BE

**REQUIRED TO MAINTAIN ON-SITE DOCUMENTATION DESCRIBING SUPERVISORY ARRANGEMENTS AS OTHERWISE REQUIRED UNDER THIS TITLE.**

15-401.

(a) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice as a physician assistant in the State unless the person has a [certificate] LICENSE issued by the Board.

(b) Except as otherwise provided in this title, a person may not perform, attempt to perform, or offer to perform any delegated medical act beyond the scope of the [certificate] LICENSE and which is consistent with a delegation agreement [approved by] FILED WITH the Board.

15-402.

(a) Except as otherwise provided under this title, a person may not represent or imply to the public by use of the title [“certified”] “LICENSED physician assistant”, by other title, by description of services, methods, or procedures that the person is [certified] LICENSED to practice as a physician assistant in the State.

(b) Unless [certified] LICENSED to practice as a physician assistant under this title, a person may not use the words or terms “physician assistant”, [“certified”] “LICENSED physician assistant”, or “P.A.”.

**15-402.1.**

**(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A LICENSED PHYSICIAN MAY NOT EMPLOY OR SUPERVISE AN INDIVIDUAL PRACTICING AS A PHYSICIAN ASSISTANT WHO DOES NOT HAVE A LICENSE.**

**(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH CARE SYSTEM, OR EMPLOYER MAY NOT EMPLOY AN INDIVIDUAL PRACTICING AS A PHYSICIAN ASSISTANT WHO DOES NOT HAVE A LICENSE.**

**(C) THE BOARD MAY IMPOSE A CIVIL PENALTY IN AN AMOUNT NOT EXCEEDING \$1,000 FOR A VIOLATION OF THIS SECTION.**

**(D) THE BOARD SHALL REMIT ANY PENALTY COLLECTED UNDER THIS SUBSECTION INTO THE BOARD OF PHYSICIANS FUND.**

15-403.

(a) A person who violates § 15-401 or § 15-402 of this subtitle:

(1) Is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 5 years or both; and

(2) Shall lose [certification] **LICENSURE** as a physician assistant under this title.

(b) (1) In addition to the penalties under subsection (a) of this section, a person who violates § 15-401 of this subtitle may be subject to a civil penalty assessed by the Board in an amount not exceeding \$5,000.

**(2) IN ADDITION TO THE PENALTIES UNDER PARAGRAPH (1) OF THIS SUBSECTION, A PERSON WHO VIOLATES § 15-309 OF THIS TITLE MAY BE SUBJECT TO A CIVIL PENALTY ASSESSED BY THE BOARD IN AN AMOUNT NOT EXCEEDING \$100.**

**[(2)] (3)** The Board shall pay any civil penalty collected under this subsection into the Board of Physicians Fund.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 275

**(Senate Bill 311)**

AN ACT concerning

### **Chesapeake Conservation Corps Program**

FOR the purpose of establishing the Chesapeake Conservation Corps Program ~~as a body politic and corporate~~; providing for the purposes of the Corps Program; establishing a Corps Board of Directors of the Corps, with specified membership, officers, duties, staff, and terms; providing for the purpose of the Corps Board; requiring the Chesapeake Bay Trust to make certain grants to certain qualified organizations for the creation or expansion of certain programs; requiring the Trust to develop certain guidelines for evaluating applications from certain qualifying organizations; requiring certain grant agreements to meet certain requirements; requiring the Trust to provide certain technical assistance to qualifying organizations under certain circumstances; providing for an Executive Director of the Corps, with certain duties and powers; providing that the Attorney General is the legal advisor of the Corps;

~~authorizing the Corps to retain certain staff; providing for the application of certain laws to the Corps and its personnel; establishing the powers of the Corps; requiring the Corps Program to undertake certain projects for certain purposes; requiring the Corps to develop and implement establishing certain requirements for certain volunteer service programs, including stipend volunteers; authorizing certain educational institutions to assist the Corps Program in certain manners; encouraging and requiring the Corps Board to seek assistance from certain sources in developing certain programs; providing that the Corps is exempt from State and local taxes; providing that the books and records of the Corps are subject to audit; requiring the Corps Board to report each year to certain persons on certain matters; requiring the Trust, in consultation with the Corps Board, to develop a certain plan plans and provide a draft certain drafts of certain plans to certain committees for a certain purpose; providing for certain funding for the Corps Program in certain fiscal years from the Environmental Trust Fund; defining certain terms; making stylistic changes; providing for the initial terms of the members of the Corps Board; and generally relating to the Chesapeake Conservation Corps Program.~~

BY renumbering

Article – Natural Resources  
 Section 8–1901 through 8–1909, respectively  
 to be Section 8–1902 through 8–1910, respectively  
 Annotated Code of Maryland  
 (2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,

Article – Natural Resources  
 Section 3–302(a), (c), and (e)  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources  
 Section ~~3–302(e)(1)(v)~~ 3–302(d)  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2009 Supplement)

BY adding to

Article – Natural Resources  
 Section ~~3–302(f)~~ 8–1901 to be under the amended subtitle “Subtitle 19. Chesapeake Bay Trust and ~~Related Units Programs~~” and the new part “Part I. General Provisions”; and 8–1913 through ~~8–1921~~ 8–1924 to be under the new part “Part II. Chesapeake Conservation Corps Program”  
 Annotated Code of Maryland  
 (2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources  
Section 8–1905  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 Supplement)  
(As enacted by Section 1 of this Act)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 8–1901 through 8–1909, respectively, of Article – Natural Resources of the Annotated Code of Maryland be renumbered to be Section(s) 8–1902 through 8–1910, respectively.

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

### **Article – Natural Resources**

3–302.

(a) (1) There is an Environmental Trust Fund.

(2) For the purpose of this subtitle, there is established as an added cost of electricity distributed to retail electric customers within the State, an environmental surcharge per kilowatt hour of electric energy distributed in the State to be paid by any electric company as defined in § 1–101 of the Public Utility Companies Article. The Public Service Commission shall impose the surcharge per kilowatt hour of electric energy distributed to retail electric customers within the State and shall authorize the electric companies to add the full amount of the surcharge to retail electric customers' bills. To the extent that the surcharge is not collected from retail electric customers, the surcharge shall be deemed a cost of distribution and shall be allowed and computed as such, together with other allowable expenses, for rate-making purposes. Revenues from the surcharge shall be collected by the Comptroller and placed in the Fund.

(c) (1) (i) The Secretary shall administer the Fund.

(ii) The Fund is subject to the provisions for financial management and budgeting established by the Department of Budget and Management.

(iii) Any investment earnings of the Fund shall be credited to the General Fund of the State.

(iv) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(v) Except as provided in paragraph (2) of this subsection, the moneys in the Fund shall be used to:

~~1. [carry] CARRY~~ out the provisions of this subtitle as provided for in the budget;~~AND~~

~~2. PROVIDE SUPPORT TO THE CHESAPEAKE CONSERVATION CORPS IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION AND TITLE 8, SUBTITLE 19, PART II OF THIS ARTICLE.~~

(vi) For the purposes of this subtitle, the Secretary, in consultation with the Director of the Maryland Energy Administration, may execute appropriate contracts with any State or federal agency, research organization, industry, or academic institution to conduct the necessary research, construct or acquire, or both, real property including physical predictive models, laboratories, buildings, land, and appurtenances, or support the technological development of extraordinary systems related to power plants designed to minimize environmental impact.

(vii) The Secretary may utilize available expertise in any other State unit in the development, execution, and management of contracts and agreements on projects relating to their areas of prime responsibility.

(2) Moneys in the Fund may be used for administrative costs calculated in accordance with § 1-103(b)(2) of this article.

(d) (1) The Maryland Energy Administration shall receive administrative and fiscal support from the Fund for studies relating to the conservation or production of electric energy.

(2) Fiscal support to the Maryland Energy Administration from the Fund may not exceed \$250,000 in any fiscal year.

**(3) IN EACH OF FISCAL YEARS 2011 THROUGH 2015, THE CHESAPEAKE BAY TRUST SHALL RECEIVE \$250,000 FROM THE FUND FOR THE PURPOSE OF FUNDING ENERGY CONSERVATION PROJECTS THROUGH THE CHESAPEAKE CONSERVATION CORPS PROGRAM, AS PROVIDED UNDER §§ 8-1913 THROUGH 8-1924 OF THIS ARTICLE.**

(e) The Legislative Auditor shall conduct post audits of a fiscal and compliance nature of the Fund and of the appropriations and expenditures made for the purposes of this subtitle. The cost of the fiscal portion of the post audit examinations shall be an operating cost of the Fund.

~~**(F) (1) IN FISCAL YEARS 2011 THROUGH 2015, THE CHESAPEAKE CONSERVATION CORPS ESTABLISHED UNDER § 8-1913 OF THIS ARTICLE SHALL RECEIVE \$1,000,000 EACH FISCAL YEAR FROM THE FUND.**~~

~~(2) THE CHESAPEAKE CONSERVATION CORPS SHALL USE THE APPROPRIATION UNDER PARAGRAPH (1) OF THIS SUBSECTION TO CARRY OUT TITLE 8, SUBTITLE 19, PART II OF THIS ARTICLE.~~

Subtitle 19. Chesapeake Bay Trust AND ~~RELATED UNITS~~ PROGRAMS.

**PART I. GENERAL PROVISIONS.**

**8-1901.**

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

(B) "BOARD" MEANS THE BOARD OF TRUSTEES OF THE CHESAPEAKE BAY TRUST.

(C) "TRUST" MEANS THE CHESAPEAKE BAY TRUST.

**8-1905.**

(a) The Board [of Trustees] shall elect [1] ONE of their members to serve as [chairman] CHAIR.

(b) The Board shall meet at places and dates to be determined by the Board, but not less than 2 times a year.

(c) Seven trustees shall constitute a quorum, but action may not be taken by [less than] a vote of [7] LESS THAN SEVEN members.

(d) A trustee:

(1) May not receive compensation AS A TRUSTEE; but

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

(e) The State agencies represented on the Trust shall provide staff, supplies, and office space, and shall be reimbursed for these expenses from moneys of the Trust.

**8-1911. RESERVED.**

**8-1912. RESERVED.**

**PART II. CHESAPEAKE CONSERVATION CORPS PROGRAM.**

8-1913.

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

(B) “CORPS BOARD” MEANS THE ADVISORY BOARD OF DIRECTORS OF THE CORPS PROGRAM.

(C) “CORPS PROGRAM” MEANS THE CHESAPEAKE CONSERVATION CORPS PROGRAM ESTABLISHED UNDER § 8-1914 OF THIS SUBTITLE PART.

(D) ~~“EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF THE CORPS~~ ENERGY CONSERVATION PROJECT” MEANS A PROJECT TO PROMOTE ENERGY CONSERVATION OR EFFICIENCY, INCLUDING A PROJECT TO:

(1) IMPROVE ENERGY EFFICIENCY OF HOUSEHOLDS AND PUBLIC STRUCTURES THROUGH ENERGY AUDITS, WEATHERIZATION, AND OTHER ON-SITE ENERGY CONSERVATION MEASURES;

(2) IMPLEMENT CLEAN ENERGY PROJECTS IN COMMUNITIES TO ENHANCE THE USE OF RENEWABLE ENERGY, ~~DECREASE RELIANCE ON FOSSIL FUELS,~~ REDUCE CARBON EMISSIONS, AND MITIGATE CLIMATE CHANGE;

(3) IMPLEMENT COMMUNITY GREENING AND URBAN TREE CANOPY PROJECTS THAT CREATE ENERGY SAVINGS; AND

(4) ASSIST SCHOOLS IN BECOMING “GREEN SCHOOLS” AND REDUCING ENERGY COSTS.

(E) “ENVIRONMENTAL PROJECT” MEANS A PROJECT THAT RESULTS IN LONG-TERM PRESERVATION, PROTECTION, AND CONSERVATION OF THE ENVIRONMENT, IN AREAS INCLUDING ENVIRONMENTAL RESTORATION, AGRICULTURAL AND FORESTRY, INFRASTRUCTURE, ENERGY CONSERVATION, AND EDUCATIONAL IMPROVEMENTS.

(F) “QUALIFIED ORGANIZATION” MEANS:

(1) A NONPROFIT ORGANIZATION;

(2) A SCHOOL;

(3) A COMMUNITY ASSOCIATION;

(4) A SERVICE, YOUTH, OR CIVIC GROUP;

(5) AN INSTITUTION OF HIGHER EDUCATION;

(6) A COUNTY OR MUNICIPALITY; OR

(7) A UNIT OF STATE GOVERNMENT.

(G) “TRUST” MEANS THE CHESAPEAKE BAY TRUST.

8-1914.

(A) THERE IS A CHESAPEAKE CONSERVATION CORPS PROGRAM ADMINISTERED BY THE TRUST, IN CONSULTATION WITH THE CORPS BOARD.

(B) ~~(1) THE CORPS IS A BODY POLITIC AND CORPORATE AND IS AN INSTRUMENTALITY OF THE STATE.~~

~~(2) THE CORPS IS AN INDEPENDENT UNIT THAT IS NOT UNDER THE ADMINISTRATION OF THE DEPARTMENT OR THE CHESAPEAKE BAY TRUST.~~

~~(C) THE EXERCISE BY THE CORPS OF THE POWERS CONFERRED BY THIS PART IS THE PERFORMANCE OF AN ESSENTIAL GOVERNMENTAL FUNCTION.~~

~~(D) THE PURPOSES~~ PURPOSE OF THE CORPS PROGRAM ~~ARE~~ IS TO:

(1) PROMOTE, PRESERVE, PROTECT, AND SUSTAIN THE ENVIRONMENT;

(2) PROVIDE YOUNG ADULTS WITH OPPORTUNITIES TO BECOME BETTER CITIZENS, STUDENTS, AND WORKERS THROUGH MEANINGFUL SERVICE TO THEIR COMMUNITIES AND THE STATE;

(3) MOBILIZE, EDUCATE, AND TRAIN YOUTH AND YOUNG ADULTS TO WORK WITH COMMUNITIES AND SCHOOLS TO PROMOTE ENERGY CONSERVATION AND MITIGATE AND PREVENT THREATS TO THE ENVIRONMENT;

(4) PROVIDE OPPORTUNITIES FOR YOUTH AND YOUNG ADULTS, ESPECIALLY DISADVANTAGED YOUTH, TO BE TRAINED FOR CAREERS THAT WILL BE PART OF THE EMERGING FIELD OF “GREEN COLLAR” JOBS;

(5) EDUCATE AND TRAIN COMMUNITIES AND INDIVIDUALS FOR THE LONG-TERM ACTION NEEDED TO CONTINUE TO PROMOTE, PRESERVE, PROTECT, AND SUSTAIN THE ENVIRONMENT AFTER A CORPS PROJECT HAS BEEN COMPLETED;

(6) ACT AS A COORDINATOR AND FACILITATOR OF EFFORTS TO FOSTER PUBLIC-PRIVATE PARTNERSHIPS IN DEVELOPING “GREEN COLLAR” JOB OPPORTUNITIES AND IN ENHANCING AND EXPANDING THE WORKFORCE AVAILABLE FOR ENVIRONMENTAL PROTECTION AND CLEAN ENERGY INDUSTRIES; AND

(7) CHANNEL AVAILABLE PUBLIC AND PRIVATE RESOURCES TO THE PROTECTION, CONSERVATION, AND PRESERVATION OF THE ENVIRONMENT OF THE STATE.

8-1915.

~~(A) A BOARD OF DIRECTORS SHALL MANAGE THE CORPS AND EXERCISE ITS CORPORATE POWERS.~~

~~(B)~~ (1) THE PURPOSE OF THE CORPS BOARD IS TO ADVISE THE TRUST IN THE DEVELOPMENT AND IMPLEMENTATION OF THE CORPS PROGRAM.

(2) THE CORPS BOARD CONSISTS OF THE FOLLOWING 11 MEMBERS:

(i) ~~TWO MEMBERS~~ ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

(ii) ~~TWO MEMBERS~~ ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(iii) ONE MEMBER APPOINTED BY THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF MARYLAND WITH THE ADVICE AND CONSENT OF THE SENATE, TO SERVE AS A LIAISON BETWEEN THE CORPS BOARD, THE CHANCELLOR, AND THE BOARD OF REGENTS; ~~AND~~

(iv) THREE MEMBERS OF THE BOARD OF TRUSTEES OF THE CHESAPEAKE BAY TRUST, APPOINTED BY THE CHAIR OF THE BOARD; AND

~~(v)~~ (v) ~~SIX~~ FIVE MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE, INCLUDING AT LEAST ONE INDIVIDUAL FROM THE NOT-FOR-PROFIT SECTOR WITH A BACKGROUND IN EDUCATION AND STUDENT SERVICE AND ONE WITH A BACKGROUND IN WORKFORCE DEVELOPMENT.

~~(2)~~ (3) IF A REGULATED LOBBYIST IS APPOINTED TO SERVE AS A MEMBER OF THE CORPS BOARD, THE LOBBYIST IS NOT SUBJECT TO:

(I) § 15-504(D) OF THE STATE GOVERNMENT ARTICLE; OR

(II) § 15-703(F)(3) OF THE STATE GOVERNMENT ARTICLE AS A RESULT OF THAT SERVICE.

~~(C)~~ (B) A MEMBER OF THE CORPS BOARD SHALL RESIDE IN THE STATE.

~~(D)~~ (C) IN MAKING APPOINTMENTS TO THE CORPS BOARD, THE GOVERNOR SHALL CONSIDER:

(1) DIVERSITY; AND

(2) ALL GEOGRAPHIC REGIONS OF THE STATE.

~~(E)~~ (D) A MEMBER OF THE CORPS BOARD:

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

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

~~(F)~~ (E) (1) THE TERM OF A MEMBER IS 4 YEARS.

(2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS ON JULY 1, 2010.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

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

~~(G)~~ (F) THE APPOINTING AUTHORITY MAY REMOVE A MEMBER FOR INCOMPETENCE, MISCONDUCT, OR FAILURE TO PERFORM THE DUTIES OF THE POSITION.

~~(H)~~ (G) (1) THE CORPS BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS MEETINGS.

(2) THE CORPS BOARD MAY ACT WITH AN AFFIRMATIVE VOTE OF SIX MEMBERS.

8-1916.

(A) FROM AMONG ITS MEMBERS, THE CORPS BOARD SHALL ELECT A CHAIR, AND A VICE CHAIR, ~~AND A TREASURER.~~

(B) THE TRUST SHALL PROVIDE STAFF SUPPORT FOR THE CORPS BOARD.

~~8-1917.~~

~~(A) (1) THE BOARD SHALL EMPLOY AN EXECUTIVE DIRECTOR.~~

~~(2) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE BOARD.~~

~~(3) THE BOARD SHALL DETERMINE THE SALARY OF THE EXECUTIVE DIRECTOR.~~

~~(4) THE EXECUTIVE DIRECTOR SHALL HAVE EXPERIENCE WITH AND POSSESS QUALIFICATIONS RELEVANT TO THE ACTIVITIES AND PURPOSES OF THE CORPS.~~

~~(B) (1) THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE OFFICER OF THE CORPS.~~

~~(2) THE EXECUTIVE DIRECTOR SHALL MANAGE THE ADMINISTRATIVE AFFAIRS AND TECHNICAL ACTIVITIES OF THE CORPS IN ACCORDANCE WITH POLICIES AND PROCEDURES THAT THE BOARD ESTABLISHES.~~

~~(C) THE EXECUTIVE DIRECTOR, OR THE EXECUTIVE DIRECTOR'S DESIGNEE, SHALL:~~

~~(1) ATTEND ALL MEETINGS OF THE BOARD;~~

~~(2) ACT AS SECRETARY TO THE BOARD;~~

~~(3) KEEP MINUTES OF ALL PROCEEDINGS OF THE BOARD;~~

~~(4) APPROVE ALL SALARIES, PER DIEM PAYMENTS, AND ALLOWABLE EXPENSES OF THE CORPS, ITS EMPLOYEES, AND ITS CONSULTANTS;~~

~~(5) APPROVE ANY EXPENSES INCIDENTAL TO THE OPERATION OF THE CORPS; AND~~

~~(6) PERFORM ANY OTHER DUTIES THAT THE BOARD DIRECTS IN CARRYING OUT THIS PART.~~

~~(D) IN FURTHERANCE OF THE PURPOSES OF THE CORPS, THE EXECUTIVE DIRECTOR IS AUTHORIZED TO EXECUTE CONTRACTS AND ACCEPT GRANTS OR DONATIONS FROM GOVERNMENTAL OR PRIVATE SOURCES.~~

~~§ 1918.~~

~~(A) THE ATTORNEY GENERAL IS THE LEGAL ADVISOR TO THE CORPS.~~

~~(B) WITH THE APPROVAL OF THE ATTORNEY GENERAL, THE CORPS MAY RETAIN OUTSIDE COUNSEL.~~

~~§ 1919.~~

~~THE CORPS MAY RETAIN ANY NECESSARY ACCOUNTANTS, ENGINEERS, FINANCIAL ADVISORS, TECHNICAL ADVISORS, OR OTHER CONSULTANTS.~~

~~§ 1920.~~

~~(A) EXCEPT AS PROVIDED IN SUBSECTIONS (B), (C), AND (E) OF THIS SECTION, THE CORPS IS EXEMPT FROM:~~

~~(1) TITLE 10 AND DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND~~

~~(2) §§ 10-505 AND 10-507 OF THE STATE GOVERNMENT ARTICLE.~~

~~(B) THE CORPS IS SUBJECT TO THE PUBLIC INFORMATION ACT.~~

~~(C) SUBJECT TO § 8-1915(B)(2) OF THIS SUBTITLE, THE BOARD AND THE OFFICERS AND EMPLOYEES OF THE CORPS ARE SUBJECT TO THE PUBLIC ETHICS LAW.~~

~~(D) THE OFFICERS AND EMPLOYEES OF THE CORPS ARE NOT SUBJECT TO THE PROVISIONS OF DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE THAT GOVERN THE STATE PERSONNEL MANAGEMENT SYSTEM.~~

~~(E) THE CORPS, ITS BOARD, AND ITS EMPLOYEES ARE SUBJECT TO TITLE 12, SUBTITLE 4 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

~~§ 1921.~~

~~THE CORPS MAY:~~

- ~~(1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;~~
- ~~(2) ADOPT A SEAL;~~
- ~~(3) MAINTAIN OFFICES AT A PLACE THE CORPS DESIGNATES IN THE STATE;~~
- ~~(4) ACCEPT LOANS, GRANTS, OR ASSISTANCE OF ANY KIND FROM THE FEDERAL OR STATE GOVERNMENT, A LOCAL GOVERNMENT, A COLLEGE OR UNIVERSITY, OR A PRIVATE SOURCE;~~
- ~~(5) ENTER INTO CONTRACTS AND OTHER LEGAL INSTRUMENTS;~~
- ~~(6) SUE OR BE SUED;~~
- ~~(7) ACQUIRE, PURCHASE, HOLD, LEASE AS LESSEE, AND USE:
  - ~~(I) A FRANCHISE, PATENT, OR LICENSE;~~
  - ~~(II) ANY REAL, PERSONAL, MIXED, TANGIBLE, OR INTANGIBLE PROPERTY; OR~~
  - ~~(III) AN INTEREST IN THE PROPERTY LISTED IN THIS ITEM;~~~~
- ~~(8) SELL, LEASE AS LESSOR, TRANSFER, LICENSE, ASSIGN, OR DISPOSE OF PROPERTY OR A PROPERTY INTEREST THAT THE CORPS ACQUIRES;~~
- ~~(9) FIX AND COLLECT RATES, RENTALS, FEES, ROYALTIES, AND CHARGES FOR SERVICES AND RESOURCES THE CORPS PROVIDES OR MAKES AVAILABLE;~~

~~(10) CREATE, OWN, CONTROL, OR BE A MEMBER OF A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, OR ANOTHER ENTITY, WHETHER OPERATED FOR PROFIT OR NOT FOR PROFIT;~~

~~(11) EXERCISE POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN PERFORMING SIMILAR FUNCTIONS UNLESS TO DO SO WOULD CONFLICT WITH STATE LAW; AND~~

~~(12) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS GRANTED BY THIS PART.~~

~~§ 1922.~~

~~THE CORPS MAY:~~

~~(1) ACQUIRE, DEVELOP, IMPROVE, MANAGE, MARKET, LICENSE, SUBLICENSE, MAINTAIN, LEASE AS LESSOR OR LESSEE, OR OPERATE A PROJECT IN THE STATE TO CARRY OUT ITS PURPOSES;~~

~~(2) ACQUIRE, DIRECTLY OR INDIRECTLY, FROM A PERSON OR POLITICAL SUBDIVISION, BY PURCHASE, GIFT, OR DEVISE ANY PROPERTY, RIGHTS OF WAY, FRANCHISES, EASEMENTS, OR OTHER INTERESTS IN LAND, INCLUDING SUBMERGED LAND AND RIPARIAN RIGHTS:~~

~~(I) AS NECESSARY OR CONVENIENT TO IMPROVE OR OPERATE A PROJECT TO CARRY OUT ITS PURPOSES; AND~~

~~(II) ON THE TERMS AND AT THE PRICES THAT THE CORPS CONSIDERS REASONABLE; AND~~

~~(3) ENTER INTO A PROJECT TO CARRY OUT ITS PURPOSES.~~

~~§ 1923. § 1917.~~

~~(A) THE CORPS SHALL DEVELOP A PROGRAM OF FULL AND PART TIME PUBLIC SERVICE THAT INVOLVES CITIZENS OF ALL AGES THROUGHOUT THE STATE IN CARRYING OUT THIS PART.~~

~~(B) FOR ITS STIPEND VOLUNTEER PROGRAMS, THE CORPS SHALL RECRUIT PRINCIPALLY INDIVIDUALS WHO, AT THE TIME OF ENROLLMENT, ARE AT LEAST 18 YEARS OF AGE AND NOT MORE THAN 25 YEARS OF AGE.~~

~~(C) FOR SUMMER PROGRAMS, THE CORPS MAY ALSO RECRUIT INDIVIDUALS AT LEAST 14 YEARS OF AGE AND NOT MORE THAN 21 YEARS OF AGE AT THE TIME OF THE ENROLLMENT.~~

~~(D) IN ADDITION, THE CORPS SHALL RECRUIT SENIOR RETIRED AND SEMIRETIRED AND OTHER QUALIFIED INDIVIDUALS WITH RELEVANT EXPERIENCE TO PARTICIPATE IN CORPS PROJECTS AND VOLUNTEER THEIR EXPERIENCE AND SKILLS.~~

~~(E) THE CORPS MAY NOT UNDERTAKE A PROJECT IF THE PROJECT WOULD REPLACE REGULAR WORKERS OR DUPLICATE OR REPLACE AN EXISTING SERVICE IN THE SAME LOCALITY.~~

(A) (1) THE TRUST, IN CONSULTATION WITH THE CORPS BOARD, SHALL MAKE GRANTS TO QUALIFIED ORGANIZATIONS FOR THE CREATION OR EXPANSION OF FULL- AND PART-TIME CHESAPEAKE CONSERVATION CORPS PROGRAMS, THAT INVOLVE CITIZENS OF ALL AGES THROUGHOUT THE STATE, TO CARRY OUT THIS PART.

(2) CORPS PROGRAMS SHALL ENGAGE AND DEVELOP VOLUNTEERS AND STIPEND VOLUNTEERS IN ENVIRONMENTAL AND ENERGY CONSERVATION PROJECTS.

(3) ELIGIBLE CORPS PROGRAM EXPENSES INCLUDE PERSONNEL COSTS, STIPENDS, SUPPLIES, AND OTHER MATERIALS FOR PROJECTS UNDERTAKEN BY CORPS PROGRAM VOLUNTEERS.

(B) THE TRUST, IN CONSULTATION WITH THE CORPS BOARD, SHALL DEVELOP GUIDELINES FOR EVALUATING APPLICATIONS FROM QUALIFIED ORGANIZATIONS.

(C) THE GUIDELINES DEVELOPED IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION SHALL:

(1) CONSIDER THE CAPABILITY OF THE QUALIFIED ORGANIZATION TO CARRY OUT CORPS PROGRAMS OR PROJECTS;

(2) ENCOURAGE AND CONSIDER MULTIYEAR, MULTIPARTNER PROPOSALS, LOCAL MATCH, COST-SHARING AGREEMENTS, AND IN-KIND MATCH AS FACTORS IN EVALUATING CORPS PROGRAM GRANT APPLICATIONS; AND

(3) REQUIRE GRANT APPLICATIONS TO DESCRIBE HOW THE QUALIFYING ORGANIZATION INTENDS TO:

- (I) ASSESS THE SKILLS OF CORPS PROGRAM VOLUNTEERS;**
  - (II) PROVIDE LIFE SKILLS AND WORK SKILLS TRAINING;**
  - (III) PROVIDE TRAINING AND EDUCATION, IN ADDITION TO THE TRAINING PROVIDED AS A PART OF THE MAIN CORPS PROGRAM;**
  - (IV) DEVELOP, WHERE RELEVANT, AGREEMENTS FOR ACADEMIC STUDY WITH:**

    - 1. LOCAL EDUCATION AGENCIES;**
    - 2. COMMUNITY COLLEGES;**
    - 3. 4-YEAR COLLEGES;**
    - 4. AREA CHARTER HIGH SCHOOLS AND VOCATIONAL-TECHNICAL SCHOOLS; AND**
    - 5. COMMUNITY-BASED ORGANIZATIONS;**
  - (V) PROVIDE CAREER AND EDUCATIONAL GUIDANCE;**
  - (VI) RECRUIT PARTICIPANTS WITHOUT HIGH SCHOOL DIPLOMAS; AND**
  - (VII) RECRUIT RETIRED AND SEMI-RETIRED SENIORS AND OTHER QUALIFIED INDIVIDUALS WITH RELEVANT EXPERIENCE TO TRAIN CORPS PROGRAM VOLUNTEERS AND PARTICIPATE IN CORPS PROJECTS BY VOLUNTEERING THEIR EXPERIENCE AND SKILLS.**
- (D) A GRANT AGREEMENT REGARDING FUNDS FROM THE TRUST SHALL:**
- (1) SPECIFY THE ALLOWED USE OF THE FUNDS PROVIDED UNDER THE GRANT, INCLUDING ACCOUNTABILITY MEASURES AND PERFORMANCE REQUIREMENTS;**
  - (2) TAKE INTO ACCOUNT THE NEED FOR EFFICIENT MULTIYEAR FUNDING AND ADMINISTRATION OF THE FUNDS; AND**
  - (3) INCLUDE PROVISIONS FOR VERIFICATION THAT CORPS PROGRAMS AND PROJECTS ARE BEING IMPLEMENTED AS PLANNED.**

~~(A) THE NUMBER OF STIPEND VOLUNTEERS IN THE CORPS SHALL BE DETERMINED BY THE EXECUTIVE DIRECTOR BASED ON THE NEEDS OF THE COMMUNITY AND THE LIMITS OF BUDGETARY APPROPRIATIONS.~~

~~(B) (1) A STIPEND VOLUNTEER IN THE CORPS SHALL MAKE A COMMITMENT OF AT LEAST 6 MONTHS OF FULL TIME SERVICE.~~

(A) (1) FOR STIPEND VOLUNTEER PROGRAMS, THE TRUST AND QUALIFIED ORGANIZATIONS SHALL PRINCIPALLY RECRUIT INDIVIDUALS FOR A MINIMUM 6-MONTH COMMITMENT WHO, AT THE TIME OF ENROLLMENT, ARE AT LEAST 18 YEARS OF AGE AND NOT MORE THAN 25 YEARS OF AGE.

(2) FOR SUMMER VOLUNTEER PROGRAMS, INCLUDING SUMMER STIPEND PROGRAMS, THE TRUST AND QUALIFIED ORGANIZATIONS SHALL PRINCIPALLY RECRUIT INDIVIDUALS WHO, AT THE TIME OF ENROLLMENT, ARE AT LEAST 15 YEARS OF AGE AND NOT MORE THAN 18 YEARS OF AGE.

(B) QUALIFIED ORGANIZATIONS MAY NOT UNDERTAKE A PROJECT IF THE PROJECT WOULD REPLACE REGULAR WORKERS OR DUPLICATE OR REPLACE AN EXISTING SERVICE IN THE SAME LOCALITY.

~~(2)~~ (C) A STIPEND VOLUNTEER:

~~(1)~~ (1) MAY NOT RECEIVE A SALARY AS A STIPEND VOLUNTEER; BUT

~~(2)~~ (2) SHALL MAY RECEIVE A STIPEND, AS DETERMINED BY THE EXECUTIVE DIRECTOR TRUST, BASED ON THE NEEDS OF THE STIPEND VOLUNTEER AND THE LIMITS OF BUDGETARY APPROPRIATIONS.

~~(D)~~ (1) A MEMBER OF THE CORPS STIPEND VOLUNTEER MAY NOT PARTICIPATE IN ANY PARTISAN POLITICAL ACTIVITY WHILE ENGAGED IN THE PERFORMANCE OF DUTIES AS A STIPEND VOLUNTEER.

(2) THIS PART IS EFFECTIVE ONLY TO THE EXTENT THAT IT DOES NOT CONFLICT WITH ANY FEDERAL OR STATE LAWS OR REGULATIONS RELATING TO PARTICIPATION IN PARTISAN POLITICAL ACTIVITIES.

~~(D) THE CORPS SHALL WORK WITH COMMUNITY AND ADVOCACY GROUPS TO FIND INDIVIDUALS WILLING TO HOST STIPEND VOLUNTEERS IN THEIR HOMES.~~

~~(E) (1) IN COOPERATION WITH THE UNIVERSITY SYSTEM OF MARYLAND, THE CORPS SHALL DEVELOP COURSE CREDIT ARRANGEMENTS~~

~~UNDER WHICH STUDENTS MAY EARN COURSE CREDITS FOR PARTICIPATION IN CORPS PROGRAMS AS AN ALTERNATIVE TO OR IN ADDITION TO PAYMENT OF A STIPEND IN A STIPEND VOLUNTEER PROGRAM OR ANOTHER VOLUNTEER CORPS PROGRAM.~~

~~(2) THE CORPS MAY ENTER INTO SIMILAR COURSE CREDIT ARRANGEMENTS WITH ANY INSTITUTION OF HIGHER EDUCATION IN THE STATE.~~

~~(F) IN CONSULTATION WITH THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT AND OTHER APPROPRIATE UNITS AND PRIVATE SECTOR ENTITIES, THE CORPS SHALL DEVELOP OPPORTUNITIES FOR STUDENT PARTICIPATION IN PRIVATE SECTOR ACTIVITIES, SUCH AS INTERNSHIP AND EXTERNSHIP PROGRAMS, IN ORDER TO ALLOW STUDENTS TO DEVELOP APPROPRIATE SKILLS, INCLUDING YOUNGER STUDENTS WHO WILL BE PARTICIPATING IN A STIPEND VOLUNTEER POSITION.~~

~~(G) THE CORPS SHALL DEVELOP INCENTIVES FOR VOLUNTEER SERVICE INCLUDING STUDENT LOAN FORGIVENESS AND OTHER APPROPRIATE MECHANISMS.~~

(3) A VOLUNTEER OR STIPEND VOLUNTEER MAY NOT PARTICIPATE IN ANY REGULATORY OR STATUTORY ENFORCEMENT ACTIVITIES WHILE ENGAGED IN THE PERFORMANCE OF DUTIES AS A MEMBER OF THE CORPS PROGRAM.

8-1919.

(A) THE TRUST SHALL PROVIDE TECHNICAL ASSISTANCE TO QUALIFIED ORGANIZATIONS THAT REQUEST ASSISTANCE.

(B) THE TRUST SHALL CONVENE CHESAPEAKE CONSERVATION CORPS PROGRAM PARTICIPANTS ON A REGULAR BASIS IN ORDER TO:

- (1) PROMOTE TEAM BUILDING AMONG THE PARTICIPANTS;
- (2) DEVELOP AN UNDERSTANDING OF THE OVERALL CORPS PROGRAM PURPOSE;
- (3) SHARE INFORMATION ABOUT BEST PRACTICES;
- (4) RECOGNIZE EXCELLENCE; AND
- (5) PROVIDE TRAINING AND OTHER LEARNING OPPORTUNITIES.

(C) IN PROVIDING TRAINING AND TECHNICAL ASSISTANCE, THE TRUST MAY CONTRACT WITH AN ORGANIZATION WITH A PROVEN TRACK RECORD OF DEVELOPING AND SUSTAINING CORPS PROGRAMS, WORKING WITH THE CONSERVATION CORPS MODEL, AND ENGAGING YOUNG PEOPLE FROM DISADVANTAGED BACKGROUNDS.

~~§ 1925.~~ § 1920.

(A) THE CORPS ~~SHALL UNDERTAKE~~ PROGRAM'S PROJECTS AND ACTIVITIES ~~THAT~~ SHALL MEET AN IDENTIFIABLE PUBLIC NEED, WITH SPECIFIC EMPHASIS ON PROJECTS THAT RESULT IN LONG-TERM PRESERVATION, PROTECTION, AND CONSERVATION OF THE ENVIRONMENT, IN AREAS INCLUDING ENVIRONMENTAL RESTORATION, AGRICULTURAL AND FORESTRY, INFRASTRUCTURE, AND EDUCATIONAL IMPROVEMENTS.

(B) ENVIRONMENTAL RESTORATION PROJECTS MAY INCLUDE:

(1) SPECIFIC NUTRIENT REDUCTION ACTIVITIES, SUCH AS PLANTING OF BAY GRASSES AND OYSTERS AND INSTALLING NATURAL SHORELINES ON PUBLIC SPACES; AND

(2) WORKING WITH COMMUNITIES TO IMPROVE THEIR ENVIRONMENTAL IMPACTS AND ACTIVITIES AND TO ENCOURAGE APPROPRIATE ENVIRONMENTAL STEWARDSHIP.

(C) AGRICULTURAL AND FORESTRY PROJECTS MAY INCLUDE WORKING WITH CORPS PROGRAM VOLUNTEERS FROM RURAL AREAS OF THE STATE IN PARTNERSHIP WITH THE AGRICULTURAL COMMUNITY IN PROJECTS TO PREVENT OR REDUCE NUTRIENT RUNOFF.

(D) INFRASTRUCTURE PROJECTS MAY INCLUDE:

(1) IMPROVING THE ENERGY EFFICIENCY OF HOUSING FOR ELDERLY AND LOW-INCOME HOUSEHOLDS;

(2) IMPLEMENTING CLEAN ENERGY PROJECTS IN COMMUNITIES TO ENHANCE THE USE OF RENEWABLE ENERGY ~~AND DECREASE RELIANCE ON FOSSIL FUELS~~, INCLUDING FREE AND LOW-COST ENERGY AUDITS; AND

(3) BUILDING OR ASSISTING IN BUILDING INFRASTRUCTURE TO PROMOTE ENVIRONMENTAL EDUCATION INCLUDING OUTDOOR CLASSROOMS, NATURE TRAILS, AND SCHOOLYARD HABITATS AND WATERSHED RESTORATION, STREAM RESTORATION, RAIN GARDENS, AND OTHER LOW-IMPACT DEVELOPMENT PROJECTS.

(E) EDUCATIONAL PROJECTS MAY INCLUDE:

(1) DEVELOPING INTERACTIVE ENVIRONMENTAL EDUCATION AND ENERGY CONSERVATION EDUCATION FOR ELEMENTARY AND SECONDARY SCHOOL STUDENTS AND THE PUBLIC;

(2) DEVELOPING CURRICULUM TARGETED AT TRAINING HIGH SCHOOL STUDENTS AND APPRENTICES TO OBTAIN SKILLS NECESSARY TO CREATE AND IMPLEMENT CLEAN ENERGY PROJECTS IN THEIR COMMUNITIES AND TO COMPETE FOR JOBS IN THE EMERGING CLEAN ENERGY SECTOR; AND

(3) ASSISTING SCHOOLS TO BECOME "GREEN SCHOOLS" AND REDUCE ENERGY COSTS THROUGH HANDS-ON PROJECTS WITH THEIR STUDENTS.

(F) ENERGY CONSERVATION PROJECTS MAY INCLUDE THE PROJECTS DEFINED IN § 8-1913(D) OF THIS PART.

~~§ 1926. 8-1921.~~

~~A DEBT, CLAIM, LIABILITY, OR AN OBLIGATION OF THE CORPS OR ANY SUBSIDIARY IS NOT:~~

~~(1) A DEBT, CLAIM, LIABILITY, OR AN OBLIGATION OF THE STATE, A UNIT OR AN INSTRUMENTALITY OF THE STATE, OR OF A STATE OFFICER OR STATE EMPLOYEE; OR~~

~~(2) A PLEDGE OF THE CREDIT OF THE STATE.~~

(A) FOR FISCAL YEARS 2011 THROUGH 2015, THE CORPS PROGRAM SHALL BE FUNDED WITH:

(1) THE AMOUNT SPECIFIED IN § 3-302(D) OF THIS ARTICLE; AND

(2) UP TO \$250,000 IN ADDITIONAL FUNDS THAT MAY BE ALLOCATED BY THE TRUST THROUGH ITS ANNUAL BUDGET PROCESS.

(B) THE TRUST AND THE CORPS BOARD SHALL SEEK FEDERAL FUNDS AND GRANTS AND DONATIONS FROM PRIVATE SOURCES TO BE MADE TO THE TRUST FOR THE PURPOSE OF LONG-TERM FUNDING OF THE CORPS PROGRAM.

~~§ 1927. 8-1922.~~

## COLLEGES AND UNIVERSITIES MAY:

(1) CONTRACT WITH THE TRUST TO CARRY OUT CORPS PROGRAM WORK;

(2) ASSIGN TO THE ~~CORPS~~ TRUST RESOURCES TO ASSIST IN ITS CORPS PROGRAM WORK, DEVELOPMENT, AND ACTIVITIES; AND

(3) ASSIGN FACULTY AND STAFF TO THE ~~CORPS~~ TRUST FOR THE PURPOSE OF CARRYING OUT OR ASSISTING WITH CORPS PROGRAMS.

~~§ 1928.~~ § 1923.

(A) IN DEVELOPING ITS PROGRAMS AND SEEKING FEDERAL AND STATE GRANTS, THE TRUST AND THE CORPS IS ENCOURAGED TO SEEK ASSISTANCE AND ADVICE FROM MANY RELEVANT PUBLIC AND PRIVATE SOURCES BOARD SHALL:

(1) COORDINATE ALL EFFORTS WITH THE MARYLAND CONSERVATION CORPS ESTABLISHED IN TITLE 5, SUBTITLE 2 OF THIS ARTICLE TO ENGAGE YOUNG ADULTS IN CONSERVATION SERVICE PROJECTS;

(2) COORDINATE ALL EFFORTS WITH THE CIVIC JUSTICE CORPS, AN ADJUNCT PROGRAM OF THE MARYLAND CONSERVATION CORPS, TO ENGAGE YOUTH IN CONSERVATION SERVICE PROJECTS; AND

(3) SEEK ASSISTANCE AND ADVICE FROM RELEVANT PUBLIC AND PRIVATE SOURCES.

(B) IN DEVELOPING CLEAN ENERGY INFRASTRUCTURE AND EDUCATIONAL PROGRAMS, THE TRUST AND THE CORPS BOARD SHALL SEEK ASSISTANCE FROM AND COOPERATE WITH THE MARYLAND CLEAN ENERGY CENTER UNDER TITLE 10, SUBTITLE 8 OF THE ECONOMIC DEVELOPMENT ARTICLE.

(C) IN DEVELOPING ITS VOLUNTEER PROGRAMS, THE TRUST AND THE CORPS BOARD SHALL SEEK ASSISTANCE FROM AND COOPERATE WITH ~~THE~~ :

(I) THE MARYLAND SERVICE CORPS AND THE GOVERNOR'S OFFICE ON SERVICE AND VOLUNTEERISM UNDER TITLE 9.5, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE;

(II) THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT AND OTHER APPROPRIATE UNITS OF STATE GOVERNMENT AND

PRIVATE SECTOR ENTITIES TO DEVELOP OPPORTUNITIES FOR STUDENT PARTICIPATION IN PRIVATE SECTOR ACTIVITIES, SUCH AS INTERNSHIP AND EXTERNSHIP PROGRAMS; AND

(III) THE UNIVERSITY SYSTEM OF MARYLAND AND OTHER INSTITUTIONS OF HIGHER EDUCATION IN THE STATE TO DEVELOP OPPORTUNITIES FOR COURSE CREDIT ARRANGEMENTS THROUGH WHICH STUDENTS MAY EARN COURSE CREDITS FOR PARTICIPATION IN CORPS PROGRAMS AS AN ALTERNATIVE TO OR IN ADDITION TO PAYMENT OF A STIPEND IN A STIPEND VOLUNTEER OR OTHER VOLUNTEER CORPS PROGRAM.

~~§ 1929.~~

~~THE CORPS IS EXEMPT FROM STATE AND LOCAL TAXES.~~

~~§ 1930.~~

~~THE BOOKS AND RECORDS OF THE CORPS ARE SUBJECT TO AUDIT:~~

~~(1) AT ANY TIME BY THE STATE; AND~~

~~(2) EACH YEAR BY AN INDEPENDENT AUDITOR THAT THE OFFICE OF LEGISLATIVE AUDITS APPROVES.~~

~~§ 1931. § 1924.~~

(A) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE TRUST, IN CONSULTATION WITH THE CORPS BOARD SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(B) THE REPORT SHALL INCLUDE A COMPLETE OPERATING AND FINANCIAL STATEMENT COVERING THE OPERATIONS OF THE CORPS BOARD AND A SUMMARY OF THE ACTIVITIES OF THE CORPS BOARD DURING THE PRECEDING FISCAL YEAR.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) The terms of the initial members of the Advisory Board of Directors of the Chesapeake Conservation Corps Program established under Section 2 of this Act appointed by the Governor shall expire as follows:

(1) two members appointed by the Governor and two members appointed by the Chair of the Board of Trustees of the Chesapeake Bay Trust, on June 30, 2015;

(2) the member appointed by the Chancellor of the University System of Maryland and one member appointed by the Governor, on June 30, 2014;

(3) ~~two members~~ one member appointed by the Governor and one member appointed by the Chair of the Board of Trustees of the Chesapeake Bay Trust, on June 30, 2013; and

(4) one member appointed by the Governor, on June 30, 2012.

(b) The terms of the initial members of the Advisory Board of Directors of the Chesapeake Conservation Corps Program appointed by the President of the Senate and the Speaker of the House shall expire on June 30, 2014.

SECTION 4. AND BE IT FURTHER ENACTED, That the Chesapeake Bay Trust, in consultation with the Advisory Board of the Chesapeake Conservation Corps Program, shall:

(a) develop a plan for the recruitment of volunteers to participate in the Chesapeake Conservation Corps Program that incorporates direct volunteer recruitment with focus on young individuals from disadvantaged backgrounds, as well as recruitment through qualified organizations; and

(b) develop a plan to centrally administer volunteer stipend payments;

(c) develop a plan that establishes mechanisms that are intended to assist in team building among volunteer participants and increase the understanding and sense of commitment to the overall Chesapeake Conservation Corps Program by volunteer participants, including measures that uniformly identify Chesapeake Conservation Corps Program volunteer participants to the public while a project is carried out; and

~~(b)~~ (d) provide a draft of the ~~plan~~ plans required under this section to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee for review and comment at least 30 days prior to the adoption and implementation of the ~~plan~~ plans by the Chesapeake Bay Trust.

SECTION ~~4.~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

AN ACT concerning

**Chesapeake Conservation Corps Program**

FOR the purpose of establishing the Chesapeake Conservation Corps Program ~~as a body politic and corporate~~; providing for the purposes of the Corps Program; establishing a Corps Board ~~of Directors of the Corps~~, with specified membership, officers, duties, staff, and terms; providing for the purpose of the Corps Board; requiring the Chesapeake Bay Trust to make certain grants to certain qualified organizations for the creation or expansion of certain programs; requiring the Trust to develop certain guidelines for evaluating applications from certain qualifying organizations; requiring certain grant agreements to meet certain requirements; requiring the Trust to provide certain technical assistance to qualifying organizations under certain circumstances; ~~providing for an Executive Director of the Corps, with certain duties and powers~~; ~~providing that the Attorney General is the legal advisor of the Corps~~; ~~authorizing the Corps to retain certain staff~~; ~~providing for the application of certain laws to the Corps and its personnel~~; ~~establishing the powers of the Corps~~; requiring the Corps Program to undertake certain projects for certain purposes; requiring the Corps to develop and implement establishing certain requirements for certain volunteer service programs, including stipend volunteers; authorizing certain educational institutions to assist the Corps Program in certain manners; ~~encouraging and~~ requiring the Corps Board to seek assistance from certain sources in developing certain programs; ~~providing that the Corps is exempt from State and local taxes~~; ~~providing that the books and records of the Corps are subject to audit~~; requiring the Corps Board to report each year to certain persons on certain matters; requiring the Trust, in consultation with the Corps Board, to develop certain plans and provide certain drafts of certain plans to certain committees for a certain purpose; providing for certain funding for the Corps Program in certain fiscal years from the Environmental Trust Fund; defining certain terms; making stylistic changes; providing for the initial terms of the members of the Corps Board; and generally relating to the Chesapeake Conservation Corps Program.

BY renumbering

Article – Natural Resources  
Section 8–1901 through 8–1909, respectively  
to be Section 8–1902 through 8–1910, respectively  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,

Article – Natural Resources  
Section 3–302(a), (c), and (e)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section ~~3–302(e)(1)(v)~~ 3–302(d)

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

BY adding to

Article – Natural Resources

Section ~~3–302(f)~~ 8–1901 to be under the amended subtitle “Subtitle 19. Chesapeake Bay Trust and ~~Related Units Programs~~” and the new part “Part I. General Provisions”; and 8–1913 through ~~8–1931~~ 8–1924 to be under the new part “Part II. Chesapeake Conservation Corps Program”

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 8–1905

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

(As enacted by Section 1 of this Act)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 8–1901 through 8–1909, respectively, of Article – Natural Resources of the Annotated Code of Maryland be renumbered to be Section(s) 8–1902 through 8–1910, respectively.

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

### **Article – Natural Resources**

3–302.

(a) (1) There is an Environmental Trust Fund.

(2) For the purpose of this subtitle, there is established as an added cost of electricity distributed to retail electric customers within the State, an environmental surcharge per kilowatt hour of electric energy distributed in the State to be paid by any electric company as defined in § 1–101 of the Public Utility Companies Article. The Public Service Commission shall impose the surcharge per kilowatt hour of electric energy distributed to retail electric customers within the State and shall authorize the electric companies to add the full amount of the surcharge to retail electric customers’ bills. To the extent that the surcharge is not collected from retail electric customers, the surcharge shall be deemed a cost of distribution and shall be allowed and computed as such, together with other allowable

expenses, for rate-making purposes. Revenues from the surcharge shall be collected by the Comptroller and placed in the Fund.

(c) (1) (i) The Secretary shall administer the Fund.

(ii) The Fund is subject to the provisions for financial management and budgeting established by the Department of Budget and Management.

(iii) Any investment earnings of the Fund shall be credited to the General Fund of the State.

(iv) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(v) Except as provided in paragraph (2) of this subsection, the moneys in the Fund shall be used to:

~~1. [carry] CARRY out the provisions of this subtitle as provided for in the budget; AND~~

~~2. PROVIDE SUPPORT TO THE CHESAPEAKE CONSERVATION CORPS IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION AND TITLE 8, SUBTITLE 19, PART II OF THIS ARTICLE.~~

(vi) For the purposes of this subtitle, the Secretary, in consultation with the Director of the Maryland Energy Administration, may execute appropriate contracts with any State or federal agency, research organization, industry, or academic institution to conduct the necessary research, construct or acquire, or both, real property including physical predictive models, laboratories, buildings, land, and appurtenances, or support the technological development of extraordinary systems related to power plants designed to minimize environmental impact.

(vii) The Secretary may utilize available expertise in any other State unit in the development, execution, and management of contracts and agreements on projects relating to their areas of prime responsibility.

(2) Moneys in the Fund may be used for administrative costs calculated in accordance with § 1-103(b)(2) of this article.

(d) (1) The Maryland Energy Administration shall receive administrative and fiscal support from the Fund for studies relating to the conservation or production of electric energy.

(2) Fiscal support to the Maryland Energy Administration from the Fund may not exceed \$250,000 in any fiscal year.

**(3) IN EACH OF FISCAL YEARS 2011 THROUGH 2015, THE CHESAPEAKE BAY TRUST SHALL RECEIVE \$250,000 FROM THE FUND FOR THE PURPOSE OF FUNDING ENERGY CONSERVATION PROJECTS THROUGH THE CHESAPEAKE CONSERVATION CORPS PROGRAM, AS PROVIDED UNDER §§ 8-1913 THROUGH 8-1924 OF THIS ARTICLE.**

(e) The Legislative Auditor shall conduct post audits of a fiscal and compliance nature of the Fund and of the appropriations and expenditures made for the purposes of this subtitle. The cost of the fiscal portion of the post audit examinations shall be an operating cost of the Fund.

~~(F) (1) IN FISCAL YEARS 2011 THROUGH 2015, THE CHESAPEAKE CONSERVATION CORPS ESTABLISHED UNDER § 8-1913 OF THIS ARTICLE SHALL RECEIVE \$1,000,000 EACH FISCAL YEAR FROM THE FUND.~~

~~(2) THE CHESAPEAKE CONSERVATION CORPS SHALL USE THE APPROPRIATION UNDER PARAGRAPH (1) OF THIS SUBSECTION TO CARRY OUT TITLE 8, SUBTITLE 19, PART II OF THIS ARTICLE.~~

Subtitle 19. Chesapeake Bay Trust AND ~~RELATED UNITS~~ PROGRAMS.

#### PART I. GENERAL PROVISIONS.

##### 8-1901.

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

(B) “BOARD” MEANS THE BOARD OF TRUSTEES OF THE CHESAPEAKE BAY TRUST.

(C) “TRUST” MEANS THE CHESAPEAKE BAY TRUST.

##### 8-1905.

(a) The Board [of Trustees] shall elect [1] ONE of their members to serve as [chairman] CHAIR.

(b) The Board shall meet at places and dates to be determined by the Board, but not less than 2 times a year.

(c) Seven trustees shall constitute a quorum, but action may not be taken by [less than] a vote of [7] **LESS THAN SEVEN** members.

(d) A trustee:

(1) May not receive compensation **AS A TRUSTEE**; but

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

(e) The State agencies represented on the Trust shall provide staff, supplies, and office space, and shall be reimbursed for these expenses from moneys of the Trust.

**8-1911. RESERVED.**

**8-1912. RESERVED.**

## **PART II. CHESAPEAKE CONSERVATION CORPS PROGRAM.**

**8-1913.**

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

(B) **“CORPS BOARD” MEANS THE ADVISORY BOARD ~~OF DIRECTORS~~ OF THE CORPS PROGRAM.**

(C) **“CORPS PROGRAM” MEANS THE CHESAPEAKE CONSERVATION CORPS PROGRAM ESTABLISHED UNDER § 8-1914 OF THIS ~~SUBTITLE~~ PART.**

(D) **~~“EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF THE CORPS~~ “CORPS ENERGY CONSERVATION PROJECT” MEANS A PROJECT TO PROMOTE ENERGY CONSERVATION OR EFFICIENCY, INCLUDING A PROJECT TO:**

**(1) IMPROVE ENERGY EFFICIENCY OF HOUSEHOLDS AND PUBLIC STRUCTURES THROUGH ENERGY AUDITS, WEATHERIZATION, AND OTHER ON-SITE ENERGY CONSERVATION MEASURES;**

**(2) IMPLEMENT CLEAN ENERGY PROJECTS IN COMMUNITIES TO ENHANCE THE USE OF RENEWABLE ENERGY, REDUCE CARBON EMISSIONS, AND MITIGATE CLIMATE CHANGE;**

**(3) IMPLEMENT COMMUNITY GREENING AND URBAN TREE CANOPY PROJECTS THAT CREATE ENERGY SAVINGS; AND**

(4) ASSIST SCHOOLS IN BECOMING “GREEN SCHOOLS” AND REDUCING ENERGY COSTS.

(E) “ENVIRONMENTAL PROJECT” MEANS A PROJECT THAT RESULTS IN LONG-TERM PRESERVATION, PROTECTION, AND CONSERVATION OF THE ENVIRONMENT, IN AREAS INCLUDING ENVIRONMENTAL RESTORATION, AGRICULTURAL AND FORESTRY, INFRASTRUCTURE, ENERGY CONSERVATION, AND EDUCATIONAL IMPROVEMENTS.

(F) “QUALIFIED ORGANIZATION” MEANS:

- (1) A NONPROFIT ORGANIZATION;
- (2) A SCHOOL;
- (3) A COMMUNITY ASSOCIATION;
- (4) A SERVICE, YOUTH, OR CIVIC GROUP;
- (5) AN INSTITUTION OF HIGHER EDUCATION;
- (6) A COUNTY OR MUNICIPALITY; OR
- (7) A UNIT OF STATE GOVERNMENT.

(G) “TRUST” MEANS THE CHESAPEAKE BAY TRUST.

8-1914.

(A) THERE IS A CHESAPEAKE CONSERVATION CORPS PROGRAM ADMINISTERED BY THE TRUST, IN CONSULTATION WITH THE CORPS BOARD.

~~(B) (1) THE CORPS IS A BODY POLITIC AND CORPORATE AND IS AN INSTRUMENTALITY OF THE STATE.~~

~~(2) THE CORPS IS AN INDEPENDENT UNIT THAT IS NOT UNDER THE ADMINISTRATION OF THE DEPARTMENT OR THE CHESAPEAKE BAY TRUST.~~

~~(C) THE EXERCISE BY THE CORPS OF THE POWERS CONFERRED BY THIS PART IS THE PERFORMANCE OF AN ESSENTIAL GOVERNMENTAL FUNCTION.~~

~~(D) THE PURPOSES PURPOSE OF THE CORPS PROGRAM ARE IS TO:~~

~~(1) PROMOTE, PRESERVE, PROTECT, AND SUSTAIN THE ENVIRONMENT;~~

(2) PROVIDE YOUNG ADULTS WITH OPPORTUNITIES TO BECOME BETTER CITIZENS, STUDENTS, AND WORKERS THROUGH MEANINGFUL SERVICE TO THEIR COMMUNITIES AND THE STATE;

(3) MOBILIZE, EDUCATE, AND TRAIN YOUTH AND YOUNG ADULTS TO WORK WITH COMMUNITIES AND SCHOOLS TO PROMOTE ENERGY CONSERVATION AND MITIGATE AND PREVENT THREATS TO THE ENVIRONMENT;

(4) PROVIDE OPPORTUNITIES FOR YOUTH AND YOUNG ADULTS, ESPECIALLY DISADVANTAGED YOUTH, TO BE TRAINED FOR CAREERS THAT WILL BE PART OF THE EMERGING FIELD OF "GREEN COLLAR" JOBS;

(5) EDUCATE AND TRAIN COMMUNITIES AND INDIVIDUALS FOR THE LONG-TERM ACTION NEEDED TO CONTINUE TO PROMOTE, PRESERVE, PROTECT, AND SUSTAIN THE ENVIRONMENT AFTER A CORPS PROJECT HAS BEEN COMPLETED;

(6) ACT AS A COORDINATOR AND FACILITATOR OF EFFORTS TO FOSTER PUBLIC-PRIVATE PARTNERSHIPS IN DEVELOPING "GREEN COLLAR" JOB OPPORTUNITIES AND IN ENHANCING AND EXPANDING THE WORKFORCE AVAILABLE FOR ENVIRONMENTAL PROTECTION AND CLEAN ENERGY INDUSTRIES; AND

(7) CHANNEL AVAILABLE PUBLIC AND PRIVATE RESOURCES TO THE PROTECTION, CONSERVATION, AND PRESERVATION OF THE ENVIRONMENT OF THE STATE.

8-1915.

~~(A) A BOARD OF DIRECTORS SHALL MANAGE THE CORPS AND EXERCISE ITS CORPORATE POWERS.~~

~~(B)~~ (1) THE PURPOSE OF THE CORPS BOARD IS TO ADVISE THE TRUST IN THE DEVELOPMENT AND IMPLEMENTATION OF THE CORPS PROGRAM.

(2) THE CORPS BOARD CONSISTS OF THE FOLLOWING 11 MEMBERS:

(1) ~~TWO MEMBERS~~ ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

(II) ~~TWO MEMBERS~~ ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(III) ONE MEMBER APPOINTED BY THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF MARYLAND WITH THE ADVICE AND CONSENT OF THE SENATE, TO SERVE AS A LIAISON BETWEEN THE CORPS BOARD, THE CHANCELLOR, AND THE BOARD OF REGENTS; ~~AND~~

(IV) THREE MEMBERS OF THE BOARD OF TRUSTEES OF THE CHESAPEAKE BAY TRUST, APPOINTED BY THE CHAIR OF THE BOARD; AND

~~(IV)~~(V) ~~SIX~~ FIVE MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE, INCLUDING AT LEAST ONE INDIVIDUAL FROM THE NOT-FOR-PROFIT SECTOR WITH A BACKGROUND IN EDUCATION AND STUDENT SERVICE AND ONE WITH A BACKGROUND IN WORKFORCE DEVELOPMENT.

~~(2)~~ (3) IF A REGULATED LOBBYIST IS APPOINTED TO SERVE AS A MEMBER OF THE CORPS BOARD, THE LOBBYIST IS NOT SUBJECT TO:

(I) § 15-504(D) OF THE STATE GOVERNMENT ARTICLE; OR

(II) § 15-703(F)(3) OF THE STATE GOVERNMENT ARTICLE AS A RESULT OF THAT SERVICE.

~~(C)~~ (B) A MEMBER OF THE CORPS BOARD SHALL RESIDE IN THE STATE.

~~(D)~~ (C) IN MAKING APPOINTMENTS TO THE CORPS BOARD, THE GOVERNOR SHALL CONSIDER:

(1) DIVERSITY; AND

(2) ALL GEOGRAPHIC REGIONS OF THE STATE.

~~(E)~~ (D) A MEMBER OF THE CORPS BOARD:

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

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

~~(F)~~ (E) (1) THE TERM OF A MEMBER IS 4 YEARS.

(2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS ON JULY 1, 2010.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

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

~~(C)~~ (F) THE APPOINTING AUTHORITY MAY REMOVE A MEMBER FOR INCOMPETENCE, MISCONDUCT, OR FAILURE TO PERFORM THE DUTIES OF THE POSITION.

~~(H)~~ (G) (1) THE CORPS BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS MEETINGS.

(2) THE CORPS BOARD MAY ACT WITH AN AFFIRMATIVE VOTE OF SIX MEMBERS.

8-1916.

(A) FROM AMONG ITS MEMBERS, THE CORPS BOARD SHALL ELECT A CHAIR, AND A VICE CHAIR, ~~AND A TREASURER.~~

(B) THE TRUST SHALL PROVIDE STAFF SUPPORT FOR THE CORPS BOARD.

~~8-1917.~~

~~(A) (1) THE BOARD SHALL EMPLOY AN EXECUTIVE DIRECTOR.~~

~~(2) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE BOARD.~~

~~(3) THE BOARD SHALL DETERMINE THE SALARY OF THE EXECUTIVE DIRECTOR.~~

~~(4) THE EXECUTIVE DIRECTOR SHALL HAVE EXPERIENCE WITH AND POSSESS QUALIFICATIONS RELEVANT TO THE ACTIVITIES AND PURPOSES OF THE CORPS.~~

~~(B) (1) THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE OFFICER OF THE CORPS.~~

~~(2) THE EXECUTIVE DIRECTOR SHALL MANAGE THE ADMINISTRATIVE AFFAIRS AND TECHNICAL ACTIVITIES OF THE CORPS IN ACCORDANCE WITH POLICIES AND PROCEDURES THAT THE BOARD ESTABLISHES.~~

~~(C) THE EXECUTIVE DIRECTOR, OR THE EXECUTIVE DIRECTOR'S DESIGNEE, SHALL:~~

~~(1) ATTEND ALL MEETINGS OF THE BOARD;~~

~~(2) ACT AS SECRETARY TO THE BOARD;~~

~~(3) KEEP MINUTES OF ALL PROCEEDINGS OF THE BOARD;~~

~~(4) APPROVE ALL SALARIES, PER DIEM PAYMENTS, AND ALLOWABLE EXPENSES OF THE CORPS, ITS EMPLOYEES, AND ITS CONSULTANTS;~~

~~(5) APPROVE ANY EXPENSES INCIDENTAL TO THE OPERATION OF THE CORPS; AND~~

~~(6) PERFORM ANY OTHER DUTIES THAT THE BOARD DIRECTS IN CARRYING OUT THIS PART.~~

~~(D) IN FURTHERANCE OF THE PURPOSES OF THE CORPS, THE EXECUTIVE DIRECTOR IS AUTHORIZED TO EXECUTE CONTRACTS AND ACCEPT GRANTS OR DONATIONS FROM GOVERNMENTAL OR PRIVATE SOURCES.~~

~~§ 1918.~~

~~(A) THE ATTORNEY GENERAL IS THE LEGAL ADVISOR TO THE CORPS.~~

~~(B) WITH THE APPROVAL OF THE ATTORNEY GENERAL, THE CORPS MAY RETAIN OUTSIDE COUNSEL.~~

~~§ 1919.~~

~~THE CORPS MAY RETAIN ANY NECESSARY ACCOUNTANTS, ENGINEERS, FINANCIAL ADVISORS, TECHNICAL ADVISORS, OR OTHER CONSULTANTS.~~

~~§ 1920.~~

~~(A) EXCEPT AS PROVIDED IN SUBSECTIONS (B), (C), AND (E) OF THIS SECTION, THE CORPS IS EXEMPT FROM:~~

~~(1) TITLE 10 AND DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND~~

~~(2) §§ 10-505 AND 10-507 OF THE STATE GOVERNMENT ARTICLE.~~

~~(B) THE CORPS IS SUBJECT TO THE PUBLIC INFORMATION ACT.~~

~~(C) SUBJECT TO § 8-1915(B)(2) OF THIS SUBTITLE, THE BOARD AND THE OFFICERS AND EMPLOYEES OF THE CORPS ARE SUBJECT TO THE PUBLIC ETHICS LAW.~~

~~(D) THE OFFICERS AND EMPLOYEES OF THE CORPS ARE NOT SUBJECT TO THE PROVISIONS OF DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE THAT GOVERN THE STATE PERSONNEL MANAGEMENT SYSTEM.~~

~~(E) THE CORPS, ITS BOARD, AND ITS EMPLOYEES ARE SUBJECT TO TITLE 12, SUBTITLE 4 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

~~§ 1921.~~

~~THE CORPS MAY:~~

~~(1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;~~

~~(2) ADOPT A SEAL;~~

~~(3) MAINTAIN OFFICES AT A PLACE THE CORPS DESIGNATES IN THE STATE;~~

~~(4) ACCEPT LOANS, GRANTS, OR ASSISTANCE OF ANY KIND FROM THE FEDERAL OR STATE GOVERNMENT, A LOCAL GOVERNMENT, A COLLEGE OR UNIVERSITY, OR A PRIVATE SOURCE;~~

~~(5) ENTER INTO CONTRACTS AND OTHER LEGAL INSTRUMENTS;~~

~~(6) SUE OR BE SUED;~~

~~(7) ACQUIRE, PURCHASE, HOLD, LEASE AS LESSEE, AND USE:~~

~~(I) A FRANCHISE, PATENT, OR LICENSE;~~

~~(II) ANY REAL, PERSONAL, MIXED, TANGIBLE, OR INTANGIBLE PROPERTY; OR~~

~~(III) AN INTEREST IN THE PROPERTY LISTED IN THIS ITEM;~~

~~(8) SELL, LEASE AS LESSOR, TRANSFER, LICENSE, ASSIGN, OR DISPOSE OF PROPERTY OR A PROPERTY INTEREST THAT THE CORPS ACQUIRES;~~

~~(9) FIX AND COLLECT RATES, RENTALS, FEES, ROYALTIES, AND CHARGES FOR SERVICES AND RESOURCES THE CORPS PROVIDES OR MAKES AVAILABLE;~~

~~(10) CREATE, OWN, CONTROL, OR BE A MEMBER OF A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, OR ANOTHER ENTITY, WHETHER OPERATED FOR PROFIT OR NOT FOR PROFIT;~~

~~(11) EXERCISE POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN PERFORMING SIMILAR FUNCTIONS UNLESS TO DO SO WOULD CONFLICT WITH STATE LAW; AND~~

~~(12) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS GRANTED BY THIS PART.~~

~~§ 1922.~~

~~THE CORPS MAY:~~

~~(1) ACQUIRE, DEVELOP, IMPROVE, MANAGE, MARKET, LICENSE, SUBLICENSE, MAINTAIN, LEASE AS LESSOR OR LESSEE, OR OPERATE A PROJECT IN THE STATE TO CARRY OUT ITS PURPOSES;~~

~~(2) ACQUIRE, DIRECTLY OR INDIRECTLY, FROM A PERSON OR POLITICAL SUBDIVISION, BY PURCHASE, GIFT, OR DEVISE ANY PROPERTY, RIGHTS OF WAY, FRANCHISES, EASEMENTS, OR OTHER INTERESTS IN LAND, INCLUDING SUBMERGED LAND AND RIPARIAN RIGHTS;~~

~~(i) AS NECESSARY OR CONVENIENT TO IMPROVE OR OPERATE A PROJECT TO CARRY OUT ITS PURPOSES; AND~~

~~(ii) ON THE TERMS AND AT THE PRICES THAT THE CORPS CONSIDERS REASONABLE; AND~~

~~(3) ENTER INTO A PROJECT TO CARRY OUT ITS PURPOSES.~~

~~§ 1923. 8-1917.~~

~~(A) THE CORPS SHALL DEVELOP A PROGRAM OF FULL AND PART TIME PUBLIC SERVICE THAT INVOLVES CITIZENS OF ALL AGES THROUGHOUT THE STATE IN CARRYING OUT THIS PART.~~

~~(B) FOR ITS STIPEND VOLUNTEER PROGRAMS, THE CORPS SHALL RECRUIT PRINCIPALLY INDIVIDUALS WHO, AT THE TIME OF ENROLLMENT, ARE AT LEAST 18 YEARS OF AGE AND NOT MORE THAN 25 YEARS OF AGE.~~

~~(C) FOR SUMMER PROGRAMS, THE CORPS MAY ALSO RECRUIT INDIVIDUALS AT LEAST 14 YEARS OF AGE AND NOT MORE THAN 21 YEARS OF AGE AT THE TIME OF THE ENROLLMENT.~~

~~(D) IN ADDITION, THE CORPS SHALL RECRUIT SENIOR RETIRED AND SEMIRETIRED AND OTHER QUALIFIED INDIVIDUALS WITH RELEVANT EXPERIENCE TO PARTICIPATE IN CORPS PROJECTS AND VOLUNTEER THEIR EXPERIENCE AND SKILLS.~~

~~(E) THE CORPS MAY NOT UNDERTAKE A PROJECT IF THE PROJECT WOULD REPLACE REGULAR WORKERS OR DUPLICATE OR REPLACE AN EXISTING SERVICE IN THE SAME LOCALITY.~~

(A) (1) THE TRUST, IN CONSULTATION WITH THE CORPS BOARD, SHALL MAKE GRANTS TO QUALIFIED ORGANIZATIONS FOR THE CREATION OR EXPANSION OF FULL- AND PART-TIME CHESAPEAKE CONSERVATION CORPS PROGRAMS, THAT INVOLVE CITIZENS OF ALL AGES THROUGHOUT THE STATE, TO CARRY OUT THIS PART.

(2) CORPS PROGRAMS SHALL ENGAGE AND DEVELOP VOLUNTEERS AND STIPEND VOLUNTEERS IN ENVIRONMENTAL AND ENERGY CONSERVATION PROJECTS.

(3) ELIGIBLE CORPS PROGRAM EXPENSES INCLUDE PERSONNEL COSTS, STIPENDS, SUPPLIES, AND OTHER MATERIALS FOR PROJECTS UNDERTAKEN BY CORPS PROGRAM VOLUNTEERS.

(B) THE TRUST, IN CONSULTATION WITH THE CORPS BOARD, SHALL DEVELOP GUIDELINES FOR EVALUATING APPLICATIONS FROM QUALIFIED ORGANIZATIONS.

(C) THE GUIDELINES DEVELOPED IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION SHALL:

(1) CONSIDER THE CAPABILITY OF THE QUALIFIED ORGANIZATION TO CARRY OUT CORPS PROGRAMS OR PROJECTS;

(2) ENCOURAGE AND CONSIDER MULTIYEAR, MULTIPARTNER PROPOSALS, LOCAL MATCH, COST-SHARING AGREEMENTS, AND IN-KIND MATCH AS FACTORS IN EVALUATING CORPS PROGRAM GRANT APPLICATIONS; AND

(3) REQUIRE GRANT APPLICATIONS TO DESCRIBE HOW THE QUALIFYING ORGANIZATION INTENDS TO:

(I) ASSESS THE SKILLS OF CORPS PROGRAM VOLUNTEERS;

(II) PROVIDE LIFE SKILLS AND WORK SKILLS TRAINING;

(III) PROVIDE TRAINING AND EDUCATION, IN ADDITION TO THE TRAINING PROVIDED AS A PART OF THE MAIN CORPS PROGRAM;

(IV) DEVELOP, WHERE RELEVANT, AGREEMENTS FOR ACADEMIC STUDY WITH:

1. LOCAL EDUCATION AGENCIES;

2. COMMUNITY COLLEGES;

3. 4-YEAR COLLEGES;

4. AREA CHARTER HIGH SCHOOLS AND VOCATIONAL-TECHNICAL SCHOOLS; AND

5. COMMUNITY-BASED ORGANIZATIONS;

(V) PROVIDE CAREER AND EDUCATIONAL GUIDANCE;

(VI) RECRUIT PARTICIPANTS WITHOUT HIGH SCHOOL DIPLOMAS; AND

(VII) RECRUIT RETIRED AND SEMI-RETIRED SENIORS AND OTHER QUALIFIED INDIVIDUALS WITH RELEVANT EXPERIENCE TO TRAIN CORPS PROGRAM VOLUNTEERS AND PARTICIPATE IN CORPS PROJECTS BY VOLUNTEERING THEIR EXPERIENCE AND SKILLS.

(D) A GRANT AGREEMENT REGARDING FUNDS FROM THE TRUST SHALL:

(1) SPECIFY THE ALLOWED USE OF THE FUNDS PROVIDED UNDER THE GRANT, INCLUDING ACCOUNTABILITY MEASURES AND PERFORMANCE REQUIREMENTS;

(2) TAKE INTO ACCOUNT THE NEED FOR EFFICIENT MULTIYEAR FUNDING AND ADMINISTRATION OF THE FUNDS; AND

(3) INCLUDE PROVISIONS FOR VERIFICATION THAT CORPS PROGRAMS AND PROJECTS ARE BEING IMPLEMENTED AS PLANNED.

~~§ 1924. 8-1918.~~

~~(A) THE NUMBER OF STIPEND VOLUNTEERS IN THE CORPS SHALL BE DETERMINED BY THE EXECUTIVE DIRECTOR BASED ON THE NEEDS OF THE COMMUNITY AND THE LIMITS OF BUDGETARY APPROPRIATIONS.~~

~~(B) (1) A STIPEND VOLUNTEER IN THE CORPS SHALL MAKE A COMMITMENT OF AT LEAST 6 MONTHS OF FULL TIME SERVICE.~~

(A) (1) FOR STIPEND VOLUNTEER PROGRAMS, THE TRUST AND QUALIFIED ORGANIZATIONS SHALL PRINCIPALLY RECRUIT INDIVIDUALS FOR A MINIMUM 6-MONTH COMMITMENT WHO, AT THE TIME OF ENROLLMENT, ARE AT LEAST 18 YEARS OF AGE AND NOT MORE THAN 25 YEARS OF AGE.

(2) FOR SUMMER VOLUNTEER PROGRAMS, INCLUDING SUMMER STIPEND PROGRAMS, THE TRUST AND QUALIFIED ORGANIZATIONS SHALL PRINCIPALLY RECRUIT INDIVIDUALS WHO, AT THE TIME OF ENROLLMENT, ARE AT LEAST 15 YEARS OF AGE AND NOT MORE THAN 18 YEARS OF AGE.

(B) QUALIFIED ORGANIZATIONS MAY NOT UNDERTAKE A PROJECT IF THE PROJECT WOULD REPLACE REGULAR WORKERS OR DUPLICATE OR REPLACE AN EXISTING SERVICE IN THE SAME LOCALITY.

~~(2)~~ (C) A STIPEND VOLUNTEER:

~~(H)~~ (1) MAY NOT RECEIVE A SALARY AS A STIPEND VOLUNTEER; BUT

~~(H)~~ (2) ~~SHALL~~ MAY RECEIVE A STIPEND, AS DETERMINED BY THE ~~EXECUTIVE DIRECTOR~~ TRUST, BASED ON THE NEEDS OF THE STIPEND VOLUNTEER AND THE LIMITS OF BUDGETARY APPROPRIATIONS.

~~(c) (D) (1) A MEMBER OF THE CORPS STIPEND VOLUNTEER MAY NOT PARTICIPATE IN ANY PARTISAN POLITICAL ACTIVITY WHILE ENGAGED IN THE PERFORMANCE OF DUTIES AS A STIPEND VOLUNTEER.~~

~~(2) THIS PART IS EFFECTIVE ONLY TO THE EXTENT THAT IT DOES NOT CONFLICT WITH ANY FEDERAL OR STATE LAWS OR REGULATIONS RELATING TO PARTICIPATION IN PARTISAN POLITICAL ACTIVITIES.~~

~~(D) THE CORPS SHALL WORK WITH COMMUNITY AND ADVOCACY GROUPS TO FIND INDIVIDUALS WILLING TO HOST STIPEND VOLUNTEERS IN THEIR HOMES.~~

~~(E) (1) IN COOPERATION WITH THE UNIVERSITY SYSTEM OF MARYLAND, THE CORPS SHALL DEVELOP COURSE CREDIT ARRANGEMENTS UNDER WHICH STUDENTS MAY EARN COURSE CREDITS FOR PARTICIPATION IN CORPS PROGRAMS AS AN ALTERNATIVE TO OR IN ADDITION TO PAYMENT OF A STIPEND IN A STIPEND VOLUNTEER PROGRAM OR ANOTHER VOLUNTEER CORPS PROGRAM.~~

~~(2) THE CORPS MAY ENTER INTO SIMILAR COURSE CREDIT ARRANGEMENTS WITH ANY INSTITUTION OF HIGHER EDUCATION IN THE STATE.~~

~~(F) IN CONSULTATION WITH THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT AND OTHER APPROPRIATE UNITS AND PRIVATE SECTOR ENTITIES, THE CORPS SHALL DEVELOP OPPORTUNITIES FOR STUDENT PARTICIPATION IN PRIVATE SECTOR ACTIVITIES, SUCH AS INTERNSHIP AND EXTERNSHIP PROGRAMS, IN ORDER TO ALLOW STUDENTS TO DEVELOP APPROPRIATE SKILLS, INCLUDING YOUNGER STUDENTS WHO WILL BE PARTICIPATING IN A STIPEND VOLUNTEER POSITION.~~

~~(G) THE CORPS SHALL DEVELOP INCENTIVES FOR VOLUNTEER SERVICE INCLUDING STUDENT LOAN FORGIVENESS AND OTHER APPROPRIATE MECHANISMS.~~

~~(3) A VOLUNTEER OR STIPEND VOLUNTEER MAY NOT PARTICIPATE IN ANY REGULATORY OR STATUTORY ENFORCEMENT ACTIVITIES WHILE ENGAGED IN THE PERFORMANCE OF DUTIES AS A MEMBER OF THE CORPS PROGRAM.~~

8-1919.

(A) THE TRUST SHALL PROVIDE TECHNICAL ASSISTANCE TO QUALIFIED ORGANIZATIONS THAT REQUEST ASSISTANCE.

**(B) THE TRUST SHALL CONVENE CHESAPEAKE CONSERVATION CORPS PROGRAM PARTICIPANTS ON A REGULAR BASIS IN ORDER TO:**

- (1) PROMOTE TEAM BUILDING AMONG THE PARTICIPANTS;**
- (2) DEVELOP AN UNDERSTANDING OF THE OVERALL CORPS PROGRAM PURPOSE;**
- (3) SHARE INFORMATION ABOUT BEST PRACTICES;**
- (4) RECOGNIZE EXCELLENCE; AND**
- (5) PROVIDE TRAINING AND OTHER LEARNING OPPORTUNITIES.**

**(C) IN PROVIDING TRAINING AND TECHNICAL ASSISTANCE, THE TRUST MAY CONTRACT WITH AN ORGANIZATION WITH A PROVEN TRACK RECORD OF DEVELOPING AND SUSTAINING CORPS PROGRAMS, WORKING WITH THE CONSERVATION CORPS MODEL, AND ENGAGING YOUNG PEOPLE FROM DISADVANTAGED BACKGROUNDS.**

**~~§ 1925.~~ § 1920.**

**(A) THE CORPS ~~SHALL UNDERTAKE~~ PROGRAM'S PROJECTS AND ACTIVITIES ~~THAT~~ SHALL MEET AN IDENTIFIABLE PUBLIC NEED, WITH SPECIFIC EMPHASIS ON PROJECTS THAT RESULT IN LONG-TERM PRESERVATION, PROTECTION, AND CONSERVATION OF THE ENVIRONMENT, IN AREAS INCLUDING ENVIRONMENTAL RESTORATION, AGRICULTURAL AND FORESTRY, INFRASTRUCTURE, AND EDUCATIONAL IMPROVEMENTS.**

**(B) ENVIRONMENTAL RESTORATION PROJECTS MAY INCLUDE:**

- (1) SPECIFIC NUTRIENT REDUCTION ACTIVITIES, SUCH AS PLANTING OF BAY GRASSES AND OYSTERS AND INSTALLING NATURAL SHORELINES ON PUBLIC SPACES; AND**
- (2) WORKING WITH COMMUNITIES TO IMPROVE THEIR ENVIRONMENTAL IMPACTS AND ACTIVITIES AND TO ENCOURAGE APPROPRIATE ENVIRONMENTAL STEWARDSHIP.**

**(C) AGRICULTURAL AND FORESTRY PROJECTS MAY INCLUDE WORKING WITH CORPS PROGRAM VOLUNTEERS FROM RURAL AREAS OF THE STATE IN PARTNERSHIP WITH THE AGRICULTURAL COMMUNITY IN PROJECTS TO PREVENT OR REDUCE NUTRIENT RUNOFF.**

(D) INFRASTRUCTURE PROJECTS MAY INCLUDE:

(1) IMPROVING THE ENERGY EFFICIENCY OF HOUSING FOR ELDERLY AND LOW-INCOME HOUSEHOLDS;

(2) IMPLEMENTING CLEAN ENERGY PROJECTS IN COMMUNITIES TO ENHANCE THE USE OF RENEWABLE ENERGY ~~AND DECREASE RELIANCE ON FOSSIL FUELS~~, INCLUDING FREE AND LOW-COST ENERGY AUDITS; AND

(3) BUILDING OR ASSISTING IN BUILDING INFRASTRUCTURE TO PROMOTE ENVIRONMENTAL EDUCATION INCLUDING OUTDOOR CLASSROOMS, NATURE TRAILS, AND SCHOOLYARD HABITATS AND WATERSHED RESTORATION, STREAM RESTORATION, RAIN GARDENS, AND OTHER LOW-IMPACT DEVELOPMENT PROJECTS.

(E) EDUCATIONAL PROJECTS MAY INCLUDE:

(1) DEVELOPING INTERACTIVE ENVIRONMENTAL EDUCATION AND ENERGY CONSERVATION EDUCATION FOR ELEMENTARY AND SECONDARY SCHOOL STUDENTS AND THE PUBLIC;

(2) DEVELOPING CURRICULUM TARGETED AT TRAINING HIGH SCHOOL STUDENTS AND APPRENTICES TO OBTAIN SKILLS NECESSARY TO CREATE AND IMPLEMENT CLEAN ENERGY PROJECTS IN THEIR COMMUNITIES AND TO COMPETE FOR JOBS IN THE EMERGING CLEAN ENERGY SECTOR; AND

(3) ASSISTING SCHOOLS TO BECOME “GREEN SCHOOLS” AND REDUCE ENERGY COSTS THROUGH HANDS-ON PROJECTS WITH THEIR STUDENTS.

(F) ENERGY CONSERVATION PROJECTS MAY INCLUDE THE PROJECTS DEFINED IN § 8-1913(D) OF THIS PART.

~~8-1926. 8-1921.~~

~~A DEBT, CLAIM, LIABILITY, OR AN OBLIGATION OF THE CORPS OR ANY SUBSIDIARY IS NOT:~~

~~(1) A DEBT, CLAIM, LIABILITY, OR AN OBLIGATION OF THE STATE, A UNIT OR AN INSTRUMENTALITY OF THE STATE, OR OF A STATE OFFICER OR STATE EMPLOYEE; OR~~

~~(2) A PLEDGE OF THE CREDIT OF THE STATE.~~

(A) FOR FISCAL YEARS 2011 THROUGH 2015, THE CORPS PROGRAM SHALL BE FUNDED WITH:

- (1) THE AMOUNT SPECIFIED IN § 3-302(D) OF THIS ARTICLE; AND
- (2) UP TO \$250,000 IN ADDITIONAL FUNDS THAT MAY BE ALLOCATED BY THE TRUST THROUGH ITS ANNUAL BUDGET PROCESS.

(B) THE TRUST AND THE CORPS BOARD SHALL SEEK FEDERAL FUNDS AND GRANTS AND DONATIONS FROM PRIVATE SOURCES TO BE MADE TO THE TRUST FOR THE PURPOSE OF LONG-TERM FUNDING OF THE CORPS PROGRAM.

~~§ 1927.~~ 8-1922.

COLLEGES AND UNIVERSITIES MAY:

- (1) CONTRACT WITH THE TRUST TO CARRY OUT CORPS PROGRAM WORK;
- (2) ASSIGN TO THE ~~CORPS~~ TRUST RESOURCES TO ASSIST IN ITS CORPS PROGRAM WORK, DEVELOPMENT, AND ACTIVITIES; AND
- (3) ASSIGN FACULTY AND STAFF TO THE ~~CORPS~~ TRUST FOR THE PURPOSE OF CARRYING OUT OR ASSISTING WITH CORPS PROGRAMS.

~~§ 1928.~~ 8-1923.

(A) IN DEVELOPING ITS PROGRAMS AND SEEKING FEDERAL AND STATE GRANTS, THE TRUST AND THE CORPS IS ENCOURAGED TO SEEK ASSISTANCE AND ADVICE FROM MANY RELEVANT PUBLIC AND PRIVATE SOURCES. BOARD SHALL:

- (1) COORDINATE ALL EFFORTS WITH THE MARYLAND CONSERVATION CORPS ESTABLISHED IN TITLE 5, SUBTITLE 2 OF THIS ARTICLE TO ENGAGE YOUNG ADULTS IN CONSERVATION SERVICE PROJECTS;
- (2) COORDINATE ALL EFFORTS WITH THE CIVIC JUSTICE CORPS, AN ADJUNCT PROGRAM OF THE MARYLAND CONSERVATION CORPS, TO ENGAGE YOUTH IN CONSERVATION SERVICE PROJECTS; AND
- (3) SEEK ASSISTANCE AND ADVICE FROM RELEVANT PUBLIC AND PRIVATE SOURCES.

(B) IN DEVELOPING CLEAN ENERGY INFRASTRUCTURE AND EDUCATIONAL PROGRAMS, THE TRUST AND THE CORPS BOARD SHALL SEEK ASSISTANCE FROM AND COOPERATE WITH THE MARYLAND CLEAN ENERGY CENTER UNDER TITLE 10, SUBTITLE 8 OF THE ECONOMIC DEVELOPMENT ARTICLE.

(C) IN DEVELOPING ITS VOLUNTEER PROGRAMS, THE TRUST AND THE CORPS BOARD SHALL SEEK ASSISTANCE FROM AND COOPERATE WITH ~~THE~~:

(I) THE MARYLAND SERVICE CORPS AND THE GOVERNOR'S OFFICE ON SERVICE AND VOLUNTEERISM UNDER TITLE 9.5, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE;

(II) THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT AND OTHER APPROPRIATE UNITS OF STATE GOVERNMENT AND PRIVATE SECTOR ENTITIES TO DEVELOP OPPORTUNITIES FOR STUDENT PARTICIPATION IN PRIVATE SECTOR ACTIVITIES, SUCH AS INTERNSHIP AND EXTERNSHIP PROGRAMS; AND

(III) THE UNIVERSITY SYSTEM OF MARYLAND AND OTHER INSTITUTIONS OF HIGHER EDUCATION IN THE STATE TO DEVELOP OPPORTUNITIES FOR COURSE CREDIT ARRANGEMENTS THROUGH WHICH STUDENTS MAY EARN COURSE CREDITS FOR PARTICIPATION IN CORPS PROGRAMS AS AN ALTERNATIVE TO OR IN ADDITION TO PAYMENT OF A STIPEND IN A STIPEND VOLUNTEER OR OTHER VOLUNTEER CORPS PROGRAM.

~~§ 1929.~~

~~THE CORPS IS EXEMPT FROM STATE AND LOCAL TAXES.~~

~~§ 1930.~~

~~THE BOOKS AND RECORDS OF THE CORPS ARE SUBJECT TO AUDIT:~~

~~(1) AT ANY TIME BY THE STATE; AND~~

~~(2) EACH YEAR BY AN INDEPENDENT AUDITOR THAT THE OFFICE OF LEGISLATIVE AUDITS APPROVES.~~

~~§ 1931. § 1924.~~

(A) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE TRUST, IN CONSULTATION WITH THE CORPS BOARD SHALL REPORT TO THE GOVERNOR

AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(B) THE REPORT SHALL INCLUDE A COMPLETE OPERATING AND FINANCIAL STATEMENT COVERING THE OPERATIONS OF THE CORPS BOARD AND A SUMMARY OF THE ACTIVITIES OF THE CORPS BOARD DURING THE PRECEDING FISCAL YEAR.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) The terms of the initial members of the Advisory Board of Directors of the Chesapeake Conservation Corps Program established under Section 2 of this Act appointed by the Governor shall expire as follows:

(1) two members appointed by the Governor and two members appointed by the Chair of the Board of Trustees of the Chesapeake Bay Trust, on June 30, 2015;

(2) the member appointed by the Chancellor of the University System of Maryland and one member appointed by the Governor, on June 30, 2014;

(3) ~~two members~~ one member appointed by the Governor and one member appointed by the Chair of the Board of Trustees of the Chesapeake Bay Trust, on June 30, 2013; and

(4) one member appointed by the Governor, on June 30, 2012.

(b) The terms of the initial members of the Advisory Board of Directors of the Chesapeake Conservation Corps Program appointed by the President of the Senate and the Speaker of the House shall expire on June 30, 2014.

SECTION 4. AND BE IT FURTHER ENACTED, That the Chesapeake Bay Trust, in consultation with the Advisory Board of the Chesapeake Conservation Corps Program, shall:

(a) develop a plan for the recruitment of volunteers to participate in the Chesapeake Conservation Corps Program that incorporates direct volunteer recruitment with focus on young individuals from disadvantaged backgrounds, as well as recruitment through qualified organizations;

(b) develop a plan to centrally administer volunteer stipend payments;

(c) develop a plan that establishes mechanisms that are intended to assist in team building among volunteer participants and increase the understanding and sense of commitment to the overall Chesapeake Conservation Corps Program by volunteer participants, including measures that uniformly identify Chesapeake

Conservation Corps Program volunteer participants to the public while a project is carried out; and

(d) provide a draft of the plans required under the section to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee for review and comment at least 30 days prior to the adoption and implementation of the plans by the Chesapeake Bay Trust.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 277**

### **(Senate Bill 315)**

AN ACT concerning

#### **Public Ethics Laws – Elected Local Officials and Board of Education Members – Requirements**

FOR the purpose of requiring certain local ethics commissions or other appropriate entities to certify to the State Ethics Commission compliance with certain provisions of law relating to elected local officials on or before a certain date each year; requiring certain conflict of interest and financial disclosure provisions for elected local officials enacted by a county or municipal corporation to be equivalent to or exceed certain requirements under certain provisions of law; requiring that certain financial disclosure statements be filed by a certain date each year; requiring, instead of authorizing, local school boards to adopt certain conflict of interest and financial disclosure provisions for members of the school board; requiring certain regulations enacted by a local school board to be equivalent to or exceed certain requirements under certain provisions of law; and generally relating to public ethics laws for elected local officials and members of boards of education.

BY repealing and reenacting, with amendments,

Article – State Government

Section 15–803, 15–804, 15–805, 15–812, and 15–813

Annotated Code of Maryland

(2009 Replacement Volume)

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

## Article – State Government

15–803.

(A) ~~Each~~ **SUBJECT TO § 15–209 OF THIS TITLE, EACH** county and each municipal corporation shall enact provisions to govern the public ethics of local officials relating to:

- (1) conflicts of interest;
- (2) financial disclosure; and
- (3) lobbying.

(B) **EACH LOCAL ETHICS COMMISSION OR APPROPRIATE ENTITY SHALL CERTIFY TO THE ETHICS COMMISSION THAT THE COUNTY OR MUNICIPAL CORPORATION IS IN COMPLIANCE WITH THE REQUIREMENTS FOR ELECTED LOCAL OFFICIALS OF THIS PART I ON OR BEFORE OCTOBER 1 OF EACH YEAR.**

15–804.

(A) [The] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE** conflict of interest provisions enacted by a county or municipal corporation under § 15–803 of this subtitle shall be similar to the provisions of Subtitle 5 of this title, but may be modified to the extent necessary to make the provisions relevant to the prevention of conflicts of interest in that jurisdiction.

(B) **THE CONFLICT OF INTEREST PROVISIONS FOR ELECTED LOCAL OFFICIALS ENACTED BY A COUNTY OR MUNICIPAL CORPORATION UNDER § 15–803 OF THIS SUBTITLE SHALL BE EQUIVALENT TO OR EXCEED THE REQUIREMENTS OF SUBTITLE 5 OF THIS TITLE, BUT MAY BE MODIFIED TO THE EXTENT NECESSARY TO MAKE THE PROVISIONS RELEVANT TO THE PREVENTION OF CONFLICTS OF INTEREST IN THAT JURISDICTION.**

15–805.

(a) (1) In this section[,] **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) **“ELECTED LOCAL OFFICIAL” INCLUDES:**

(I) **ANY INDIVIDUAL WHO HOLDS AN ELECTIVE OFFICE OF A COUNTY OR MUNICIPAL CORPORATION; AND**

**(II) A CANDIDATE FOR ELECTIVE OFFICE AS A LOCAL OFFICIAL OF A COUNTY OR MUNICIPAL CORPORATION.**

**(3) [“local] “LOCAL official” includes[:**

(1) a candidate for elective office as a local official of a county or municipal corporation if the holder of the office is designated as a local official; and

(2)] an individual, designated as a local official, whose position is funded wholly or partly by the State.

(b) **(1)** Except as provided in **PARAGRAPH (2) OF THIS SUBSECTION AND** subsection (c) of this section, the financial disclosure provisions enacted by a county or municipal corporation under § 15–803 of this subtitle shall be similar to the provisions of Subtitle 6 of this title, but shall be modified to the extent necessary to make the provisions relevant to the prevention of conflicts of interest in that jurisdiction.

**(2) THE FINANCIAL DISCLOSURE PROVISIONS FOR ELECTED LOCAL OFFICIALS ENACTED BY A COUNTY OR MUNICIPAL CORPORATION UNDER § 15–803 OF THIS SUBTITLE SHALL BE EQUIVALENT TO OR EXCEED THE REQUIREMENTS OF SUBTITLE 6 OF THIS TITLE, BUT SHALL BE MODIFIED TO THE EXTENT NECESSARY TO MAKE THE PROVISIONS RELEVANT TO THE PREVENTION OF CONFLICTS OF INTEREST IN THAT JURISDICTION.**

(c) (1) This subtitle does not compel the governing body of a county or municipal corporation to require a local official to file a financial disclosure statement except:

(i) when the personal interest of the local official will present a potential conflict with the public interest in connection with an anticipated public action of the local official; and

(ii) at least annually to report on gifts received by the local official.

(2) The provisions shall require:

**(I)** that a statement filed under paragraph (1)(i) of this subsection be filed sufficiently in advance of the action to provide adequate disclosure to the public; **AND**

**(II) A STATEMENT FILED BY AN ELECTED LOCAL OFFICIAL UNDER SUBSECTION (B)(2) OF THIS SECTION TO BE FILED ON OR BEFORE APRIL 30 OF EACH YEAR.**

(d) Financial disclosure provisions applicable to a candidate shall be consistent with the provisions applicable to an incumbent holding the office involved.

15-812.

(a) **[A] IN ACCORDANCE WITH THIS SECTION, A school board:**

**(1)** may adopt conflict of interest regulations applicable [to members of the school board and] to officials and employees of the school system [in accordance with this section]; **AND**

**(2) SHALL ADOPT CONFLICT OF INTEREST REGULATIONS APPLICABLE TO MEMBERS OF THE SCHOOL BOARD.**

(b) **(1)** The conflict of interest regulations adopted by a school board under subsection (a)**(1)** of this section shall be similar to the provisions of Subtitle 5 of this title, but may be modified to the extent necessary to make the regulations relevant to the prevention of conflicts of interest in that school system.

**(2) THE CONFLICT OF INTEREST REGULATIONS ADOPTED BY A SCHOOL BOARD UNDER SUBSECTION (A)(2) OF THIS SECTION SHALL BE EQUIVALENT TO OR EXCEED THE REQUIREMENTS OF SUBTITLE 5 OF THIS TITLE, BUT MAY BE MODIFIED TO THE EXTENT NECESSARY TO MAKE THE REGULATIONS RELEVANT TO THE PREVENTION OF CONFLICTS OF INTEREST IN THAT SCHOOL SYSTEM.**

(c) Unless a school board adopts and maintains conflict of interest regulations under **SUBSECTION (A)(1) OF** this [subtitle] **SECTION**, the provisions enacted by the county under § 15-804 of this subtitle shall apply to [the members of the school board and to] officials and employees of that school system.

15-813.

(a) **(1) [A] IN ACCORDANCE WITH THIS SECTION, A school board:**

**(I)** may adopt financial disclosure regulations applicable to [members of the school board and to] officials and employees of that school system [in accordance with this section]; **AND**

**(II) SHALL ADOPT FINANCIAL DISCLOSURE REGULATIONS APPLICABLE TO MEMBERS OF THE SCHOOL BOARD.**

**(2) (i)** The regulations adopted under paragraph **(1)(I)** of this subsection shall apply to:

[1. each member of the school board;

2. if the school board is an elected board under Title 3, Subtitle 1, Part III of the Education Article, each candidate for election to the school board;]

[3.] 1. the superintendent of that school system; and

[4.] 2. subject to subparagraph [(ii)] (III) of this paragraph, those other officials and employees of that school system designated by the school board.

**(II) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL APPLY TO:**

**1. EACH MEMBER OF THE SCHOOL BOARD; AND**

**2. IF THE SCHOOL BOARD IS AN ELECTED BOARD UNDER TITLE 3, SUBTITLE 1, PART III OF THE EDUCATION ARTICLE, EACH CANDIDATE FOR ELECTION TO THE SCHOOL BOARD.**

[(ii)] (III) The regulations may not apply to a classroom teacher unless the teacher has additional duties, not normally expected of classroom teachers, that cause the teacher for other reasons to be covered by the financial disclosure regulations.

(b) (1) Except as provided in subsection (c) of this section, the regulations adopted under subsection (a)(1)(I) of this section shall be similar to the provisions of Subtitle 6 of this title, but may be modified to the extent necessary to make the regulations relevant to the prevention of conflicts of interest in that school system.

**(2) THE REGULATIONS ADOPTED UNDER SUBSECTION (A)(1)(II) OF THIS SECTION SHALL BE EQUIVALENT TO OR EXCEED THE REQUIREMENTS OF SUBTITLE 6 OF THIS TITLE, BUT MAY BE MODIFIED TO THE EXTENT NECESSARY TO MAKE THE REGULATIONS RELEVANT TO THE PREVENTION OF CONFLICTS OF INTEREST IN THAT SCHOOL SYSTEM.**

(c) (1) (I) This [section] PARAGRAPH does not compel a school board to require an individual to file a financial disclosure statement except:

[(i)] 1. when the personal interest of the individual will present a potential conflict with the public interest in connection with an anticipated public action of the individual; and

[(ii)] 2. at least annually to report on gifts received by the individual.

[(2)] (II) The regulations **ADOPTED UNDER SUBSECTION (A)(1)(I) OF THIS SECTION** shall require that a statement filed under [paragraph (1)(i)] **SUBPARAGRAPH (I)1** of this [subsection] **PARAGRAPH** be filed sufficiently in advance of the public action to provide adequate disclosure to the public.

**(2) THE REGULATIONS ADOPTED UNDER SUBSECTION (A)(1)(II) OF THIS SECTION SHALL REQUIRE THAT A STATEMENT FILED BY A MEMBER OF A BOARD OF EDUCATION BE FILED ON OR BEFORE APRIL 30 OF EACH YEAR.**

(d) [Unless] **EXCEPT AS PROVIDED FOR A MEMBER OF A BOARD OF EDUCATION UNDER THIS PART II, UNLESS** a school board adopts and maintains financial disclosure regulations under this subtitle, the provisions enacted by the county under § 15-805 of this subtitle shall apply to:

- (1) [each member of the school board;
- (2)] the superintendent of that school system; and

[(3)] (2) the other officials and employees of the school system that the governing body of that county designates.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 278

**(Senate Bill 319)**

AN ACT concerning

### **African American Heritage Preservation Program**

FOR the purpose of establishing the African American Heritage Preservation Program in the Maryland Historical Trust to identify and preserve certain buildings, communities, and sites of historical and cultural importance to the African American experience; requiring the Trust to develop and administer the Program in ~~consultation~~ partnership with the Commission on African American History and Culture; authorizing certain entities to submit, on or before a certain date, an application to receive a grant for an African American heritage

preservation capital project; requiring that grants to certain grantees under the Program require a certain matching fund; requiring the Trust and Commission to review grant applications ~~before a certain date and make certain recommendations to the Commission~~ and consider certain factors; requiring the Trust and Commission ~~to approve~~, on or before a certain date, to recommend capital projects for funding in the State capital budget and forward the recommendations to the Department of Budget and Management; requiring the Governor to include certain funding in the annual capital budget submission; requiring the Trust and Commission to report to the Governor and General Assembly on or before a certain date; requiring a grantee under the Program to enter into a certain agreement, unless the requirement is waived by the Secretary of Planning; requiring the ~~Trust~~ Secretary, in consultation with the Commission, to adopt certain regulations to implement the Program; providing that certain regulations may not be adopted unless approved by the Board of Public Works; requiring the Trust and Commission, to the extent required by certain regulations, to submit grants recommended under the Program to the Board of Public Works for approval; defining certain terms; ~~stating the a certain~~ intent of the General Assembly; providing for the termination of this Act; and generally relating to a State capital grant program for African American heritage preservation.

BY adding to

Article – State Finance and Procurement  
Section 5A–330  
Annotated Code of Maryland  
(2009 Replacement Volume)

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

**Article – State Finance and Procurement**

**5A–330.**

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

(2) “CAPITAL PROJECT” MEANS THE:

(I) ACQUISITION OF LAND OR BUILDINGS FOR AN AFRICAN AMERICAN HERITAGE PRESERVATION PROJECT; OR

(II) CONSTRUCTION OR IMPROVEMENT OF AN AFRICAN AMERICAN HERITAGE PRESERVATION PROJECT.

(3) "COMMISSION" MEANS THE COMMISSION ON AFRICAN AMERICAN HISTORY AND CULTURE.

(4) "CONSTRUCTION OR IMPROVEMENT" MEANS PLANNING, DESIGN, ENGINEERING, ALTERATION, CONSTRUCTION, RECONSTRUCTION, ENLARGEMENT, EXPANSION, EXTENSION, IMPROVEMENT, REPLACEMENT, REHABILITATION, RENOVATION, UPGRADING, REPAIR, OR CAPITAL EQUIPPING.

(5) "GRANTEE" MEANS A BUSINESS ENTITY, INDIVIDUAL, NONPROFIT ORGANIZATION, OR POLITICAL SUBDIVISION.

(6) "SECRETARY" MEANS THE SECRETARY OF PLANNING.

(B) (1) THERE IS AN AFRICAN AMERICAN HERITAGE PRESERVATION PROGRAM IN THE TRUST.

(2) THE PURPOSE OF THE AFRICAN AMERICAN HERITAGE PRESERVATION PROGRAM IS TO IDENTIFY AND PRESERVE BUILDINGS, COMMUNITIES, AND SITES OF HISTORICAL AND CULTURAL IMPORTANCE TO THE AFRICAN AMERICAN EXPERIENCE IN MARYLAND.

(C) THE TRUST SHALL DEVELOP AND ADMINISTER THE AFRICAN AMERICAN HERITAGE PRESERVATION PROGRAM IN ~~CONSULTATION~~ PARTNERSHIP WITH THE COMMISSION.

(D) (1) ON OR BEFORE JULY 15 OF EACH YEAR, A GRANTEE MAY SUBMIT AN APPLICATION TO THE ~~TRUST~~ JOINT PARTNERSHIP OF THE TRUST AND COMMISSION TO RECEIVE A GRANT FOR AN AFRICAN AMERICAN HERITAGE PRESERVATION CAPITAL PROJECT FOR THE NEXT FISCAL YEAR.

(2) AN APPLICATION SHALL INCLUDE:

(I) A DESCRIPTION OF THE SCOPE AND PURPOSE OF THE PROJECT;

(II) A BUILDING PLAN THAT INCLUDES THE ESTIMATED TOTAL COST OF THE PROJECT; AND

(III) ANY OTHER INFORMATION REQUIRED BY THE TRUST AND COMMISSION.

(E) GRANTS UNDER THE PROGRAM TO A BUSINESS ENTITY, INDIVIDUAL, OR POLITICAL SUBDIVISION:

(1) REQUIRE A MATCHING FUND FROM ANY COMBINATION OF FEDERAL, COUNTY, MUNICIPAL, OR PRIVATE SOURCES; AND

(2) MAY NOT EXCEED 50% OF THE TOTAL COST OF AN AFRICAN AMERICAN HERITAGE PRESERVATION CAPITAL PROJECT.

(F) (1) THE TRUST AND COMMISSION SHALL REVIEW GRANT APPLICATIONS SUBMITTED IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION;

~~(2) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE TRUST SHALL MAKE RECOMMENDATIONS TO THE COMMISSION REGARDING AND SHALL MAKE RECOMMENDATIONS FOR AFRICAN AMERICAN HERITAGE PRESERVATION CAPITAL PROJECT GRANTS FOR THE NEXT FISCAL YEAR.~~

~~(3)~~ (2) IN MAKING ~~ITS~~ RECOMMENDATIONS UNDER THIS SUBSECTION, THE TRUST AND COMMISSION SHALL CONSIDER:

- (I) THE PUBLIC NECESSITY AND URGENCY OF A PROJECT;
  - (II) THE NEED FOR ADDITIONAL SOURCES OF FUNDING FOR A PROJECT;
  - (III) THE ESTIMATED COST AND TIMELINESS OF EXECUTING A PROJECT;
  - (IV) THE VIABILITY OF MATCHING FUNDS FOR A PROJECT;
- AND
- (V) GEOGRAPHIC DIVERSITY.

~~(4)~~ (3) ON OR BEFORE NOVEMBER 1 OF EACH YEAR, THE TRUST AND COMMISSION SHALL:

(I) ~~APPROVE~~ RECOMMEND AFRICAN AMERICAN HERITAGE PRESERVATION CAPITAL PROJECTS FOR FUNDING IN THE STATE CAPITAL BUDGET FOR THE NEXT FISCAL YEAR; AND

(II) FORWARD THE LIST OF ~~APPROVED~~ RECOMMENDED PROJECTS AND GRANTEES TO THE DEPARTMENT OF BUDGET AND MANAGEMENT.

(G) FOR FISCAL YEAR 2012 AND EACH FISCAL YEAR THEREAFTER, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL CAPITAL BUDGET SUBMISSION

**\$1,000,000 FOR AFRICAN AMERICAN HERITAGE PRESERVATION CAPITAL PROJECTS.**

(H) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE TRUST AND COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ON STATE GRANTS AWARDED FOR AFRICAN AMERICAN HERITAGE PRESERVATION CAPITAL PROJECTS FOR THE PRIOR FISCAL YEAR.

(I) (1) ~~THE~~ EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE TRUST SHALL REQUIRE A GRANTEE UNDER THE AFRICAN AMERICAN HERITAGE PRESERVATION PROGRAM TO ENTER INTO AN AGREEMENT TO PRESERVE AND MAINTAIN THE PROPERTY.

(2) IF THE PROPERTY IS HISTORIC REAL PROPERTY, THE AGREEMENT SHALL BE A RECORDABLE HISTORIC PRESERVATION EASEMENT.

(3) THE SECRETARY MAY WAIVE THE EASEMENT REQUIREMENT IF THE SECRETARY DETERMINES THAT AN EASEMENT IS IMPRACTICABLE OR INFEASIBLE UNDER THE CIRCUMSTANCES.

(J) (1) ~~THE TRUST~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE SECRETARY, IN CONSULTATION WITH THE COMMISSION, SHALL ADOPT REGULATIONS TO IMPLEMENT THE AFRICAN AMERICAN HERITAGE PRESERVATION PROGRAM.

(2) A PROPOSED REGULATION THAT RELATES TO APPROVAL BY THE BOARD OF PUBLIC WORKS OF GRANTS TO BE FINANCED THROUGH THE SALE OF STATE GENERAL OBLIGATION BONDS MAY NOT BE ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION UNLESS THE REGULATION IS APPROVED BY THE BOARD OF PUBLIC WORKS.

(K) TO THE EXTENT REQUIRED BY REGULATIONS ADOPTED UNDER SUBSECTION (J) OF THIS SECTION, THE TRUST AND THE COMMISSION SHALL SUBMIT TO THE BOARD OF PUBLIC WORKS FOR THE BOARD'S APPROVAL EACH RECOMMENDED AFRICAN AMERICAN HERITAGE PRESERVATION PROGRAM GRANT THAT IS TO BE FINANCED THROUGH THE SALE OF STATE GENERAL OBLIGATION BONDS.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Maryland Historical Trust and the Commission on African American History and Culture administer the African American Heritage Preservation Program established under this Act using existing resources.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010. It shall remain effective for a period of 5 years and, at the end of May 31, 2015, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 4, 2010.

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## Chapter 279

### (House Bill 915)

AN ACT concerning

#### **African American Heritage Preservation Program**

FOR the purpose of establishing the African American Heritage Preservation Program in the Maryland Historical Trust to identify and preserve certain buildings, communities, and sites of historical and cultural importance to the African American experience; requiring the Trust to develop and administer the Program in ~~consultation~~ partnership with the Commission on African American History and Culture; authorizing certain entities to submit, on or before a certain date, an application to receive a grant for an African American heritage preservation capital project; requiring that grants to certain grantees under the Program require a certain matching fund; requiring the Trust and Commission to review grant applications ~~before a certain date and make certain recommendations to the Commission~~ and consider certain factors; requiring the Trust and Commission ~~to approve~~, on or before a certain date, to recommend capital projects for funding in the State capital budget and forward the recommendations to the Department of Budget and Management; requiring the Governor to include certain funding in the annual capital budget submission; requiring the Trust and Commission to report to the Governor and General Assembly on or before a certain date; requiring a grantee under the Program to enter into a certain agreement, unless the requirement is waived by the Secretary of Planning; requiring the ~~Trust~~ Secretary, in consultation with the Commission, to adopt certain regulations to implement the Program; providing that certain regulations may not be adopted unless approved by the Board of Public Works; requiring the Trust and Commission, to the extent required by certain regulations, to submit grants recommended under the Program to the Board of Public Works for approval; defining certain terms; stating a certain intent of the General Assembly; providing for the termination of this Act; and generally relating to a State capital grant program for African American heritage preservation.

BY adding to

Article – State Finance and Procurement

Section 5A-330  
Annotated Code of Maryland  
(2009 Replacement Volume)

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

**Article – State Finance and Procurement**

**5A-330.**

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

(2) “CAPITAL PROJECT” MEANS THE:

(I) ACQUISITION OF LAND OR BUILDINGS FOR AN AFRICAN AMERICAN HERITAGE PRESERVATION PROJECT; OR

(II) CONSTRUCTION OR IMPROVEMENT OF AN AFRICAN AMERICAN HERITAGE PRESERVATION PROJECT.

(3) “COMMISSION” MEANS THE COMMISSION ON AFRICAN AMERICAN HISTORY AND CULTURE.

(4) “CONSTRUCTION OR IMPROVEMENT” MEANS PLANNING, DESIGN, ENGINEERING, ALTERATION, CONSTRUCTION, RECONSTRUCTION, ENLARGEMENT, EXPANSION, EXTENSION, IMPROVEMENT, REPLACEMENT, REHABILITATION, RENOVATION, UPGRADING, REPAIR, OR CAPITAL EQUIPPING.

(5) “GRANTEE” MEANS A BUSINESS ENTITY, INDIVIDUAL, NONPROFIT ORGANIZATION, OR POLITICAL SUBDIVISION.

(6) “SECRETARY” MEANS THE SECRETARY OF PLANNING.

(B) (1) THERE IS AN AFRICAN AMERICAN HERITAGE PRESERVATION PROGRAM IN THE TRUST.

(2) THE PURPOSE OF THE AFRICAN AMERICAN HERITAGE PRESERVATION PROGRAM IS TO IDENTIFY AND PRESERVE BUILDINGS, COMMUNITIES, AND SITES OF HISTORICAL AND CULTURAL IMPORTANCE TO THE AFRICAN AMERICAN EXPERIENCE IN MARYLAND.

(C) THE TRUST SHALL DEVELOP AND ADMINISTER THE AFRICAN AMERICAN HERITAGE PRESERVATION PROGRAM IN ~~CONSULTATION~~ PARTNERSHIP WITH THE COMMISSION.

(D) (1) ON OR BEFORE JULY 15 OF EACH YEAR, A GRANTEE MAY SUBMIT AN APPLICATION TO THE ~~TRUST~~ JOINT PARTNERSHIP OF THE TRUST AND COMMISSION TO RECEIVE A GRANT FOR AN AFRICAN AMERICAN HERITAGE PRESERVATION CAPITAL PROJECT FOR THE NEXT FISCAL YEAR.

(2) AN APPLICATION SHALL INCLUDE:

(I) A DESCRIPTION OF THE SCOPE AND PURPOSE OF THE PROJECT;

(II) A BUILDING PLAN THAT INCLUDES THE ESTIMATED TOTAL COST OF THE PROJECT; AND

(III) ANY OTHER INFORMATION REQUIRED BY THE TRUST AND COMMISSION.

(E) GRANTS UNDER THE PROGRAM TO A BUSINESS ENTITY, INDIVIDUAL, OR POLITICAL SUBDIVISION:

(1) REQUIRE A MATCHING FUND FROM ANY COMBINATION OF FEDERAL, COUNTY, MUNICIPAL, OR PRIVATE SOURCES; AND

(2) MAY NOT EXCEED 50% OF THE TOTAL COST OF AN AFRICAN AMERICAN HERITAGE PRESERVATION CAPITAL PROJECT.

(F) (1) THE TRUST AND COMMISSION SHALL REVIEW GRANT APPLICATIONS SUBMITTED IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION;

~~(2) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE TRUST SHALL MAKE RECOMMENDATIONS TO THE COMMISSION REGARDING~~ AND SHALL MAKE RECOMMENDATIONS FOR AFRICAN AMERICAN HERITAGE PRESERVATION CAPITAL PROJECT GRANTS FOR THE NEXT FISCAL YEAR.

~~(3)~~ (2) IN MAKING ~~ITS~~ RECOMMENDATIONS UNDER THIS SUBSECTION, THE TRUST AND COMMISSION SHALL CONSIDER:

(I) THE PUBLIC NECESSITY AND URGENCY OF A PROJECT;

- (II) THE NEED FOR ADDITIONAL SOURCES OF FUNDING FOR A PROJECT;
- (III) THE ESTIMATED COST AND TIMELINESS OF EXECUTING A PROJECT;
- (IV) THE VIABILITY OF MATCHING FUNDS FOR A PROJECT;
- AND
- (V) GEOGRAPHIC DIVERSITY.

~~(4)~~ (3) ON OR BEFORE NOVEMBER 1 OF EACH YEAR, THE TRUST AND COMMISSION SHALL:

(I) ~~APPROVE~~ RECOMMEND AFRICAN AMERICAN HERITAGE PRESERVATION CAPITAL PROJECTS FOR FUNDING IN THE STATE CAPITAL BUDGET FOR THE NEXT FISCAL YEAR; AND

(II) FORWARD THE LIST OF ~~APPROVED~~ RECOMMENDED PROJECTS AND GRANTEES TO THE DEPARTMENT OF BUDGET AND MANAGEMENT.

(G) FOR FISCAL YEAR 2012 AND EACH FISCAL YEAR THEREAFTER, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL CAPITAL BUDGET SUBMISSION \$1,000,000 FOR AFRICAN AMERICAN HERITAGE PRESERVATION CAPITAL PROJECTS.

(H) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE TRUST AND COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ON STATE GRANTS AWARDED FOR AFRICAN AMERICAN HERITAGE PRESERVATION CAPITAL PROJECTS FOR THE PRIOR FISCAL YEAR.

(I) (1) ~~THE~~ EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE TRUST SHALL REQUIRE A GRANTEE UNDER THE AFRICAN AMERICAN HERITAGE PRESERVATION PROGRAM TO ENTER INTO AN AGREEMENT TO PRESERVE AND MAINTAIN THE PROPERTY.

(2) IF THE PROPERTY IS HISTORIC REAL PROPERTY, THE AGREEMENT SHALL BE A RECORDABLE HISTORIC PRESERVATION EASEMENT.

(3) THE SECRETARY MAY WAIVE THE EASEMENT REQUIREMENT IF THE SECRETARY DETERMINES THAT AN EASEMENT IS IMPRACTICABLE OR INFEASIBLE UNDER THE CIRCUMSTANCES.

**(J) (1) ~~THE TRUST~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE SECRETARY, IN CONSULTATION WITH THE COMMISSION, SHALL ADOPT REGULATIONS TO IMPLEMENT THE AFRICAN AMERICAN HERITAGE PRESERVATION PROGRAM.**

**(2) A PROPOSED REGULATION THAT RELATES TO APPROVAL BY THE BOARD OF PUBLIC WORKS OF GRANTS TO BE FINANCED THROUGH THE SALE OF STATE GENERAL OBLIGATION BONDS MAY NOT BE ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION UNLESS THE REGULATION IS APPROVED BY THE BOARD OF PUBLIC WORKS.**

**(K) TO THE EXTENT REQUIRED BY REGULATIONS ADOPTED UNDER SUBSECTION (J) OF THIS SECTION, THE TRUST AND THE COMMISSION SHALL SUBMIT TO THE BOARD OF PUBLIC WORKS FOR THE BOARD'S APPROVAL EACH RECOMMENDED AFRICAN AMERICAN HERITAGE PRESERVATION PROGRAM GRANT THAT IS TO BE FINANCED THROUGH THE SALE OF STATE GENERAL OBLIGATION BONDS.**

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Maryland Historical Trust and the Commission on African American History and Culture administer the African American Heritage Preservation Program established under this Act using existing resources.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010. It shall remain effective for a period of 5 years and, at the end of May 31, 2015, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

**Approved by the Governor, May 4, 2010.**

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## Chapter 280

(Senate Bill 330)

AN ACT concerning

### Human Services – Quality Care – Juvenile Facilities

FOR the purpose of requiring each committed facility licensed by the Department of Juvenile Services to serve no more than 48 children at one time *except under certain circumstances*; and generally relating to juvenile facilities.

BY repealing and reenacting, with amendments,

Article – Human Services  
Section 9–238.1(a)  
Annotated Code of Maryland  
(2007 Volume and 2009 Supplement)

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

**Article – Human Services**

9–238.1.

(a) The Department shall serve children in the juvenile services system with programming that:

- (1) ensures the safety of the community and the children served;
- (2) holds delinquent children accountable to victims and communities;
- (3) assists children to develop competencies to become successful members of society;
- (4) delivers services on a regional basis through at least four operational regions;
- (5) ***(I)*** ensures that [a] **EACH** committed facility owned ~~OR LICENSED~~ by the Department serves no more than 48 children at one time; and

***(II) ENSURES THAT EACH COMMITTED FACILITY LICENSED BY THE DEPARTMENT SERVES NO MORE THAN 48 CHILDREN AT ONE TIME, UNLESS THE SECRETARY FINDS GOOD CAUSE FOR A COMMITTED FACILITY LICENSED BY THE DEPARTMENT TO SERVE MORE THAN 48 CHILDREN AT ONE TIME; AND***

(6) uses detention and committed facilities that are operationally separate from each other and that do not share common program space, including dining halls and educational or recreational facilities.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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**Chapter 281****(Senate Bill 341)**

AN ACT concerning

**Real Property – Effect of Deed Granting Property from Trust or Estate**

FOR the purpose of providing that a grant of property by deed from a certain trust has the same effect as if the grantee had received the property from a certain trustee under certain circumstances; providing that a grant of property by deed from a certain estate has the same effect as if the grantee had received the property from a certain personal representative under certain circumstances; providing for the application of this Act; and generally relating to grants of property by deed from certain trusts or estates.

BY repealing and reenacting, with amendments,  
Article – Real Property  
Section 2–122  
Annotated Code of Maryland  
(2003 Replacement Volume and 2009 Supplement)

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

**Article – Real Property**

2–122.

(a) (1) In this section, “trust” means an express inter vivos or testamentary trust.

(2) “Trust” includes the following instruments or funding arrangements in the nature of a trust:

- (i) A profit sharing plan;
- (ii) A retirement plan;
- (iii) A liquidating or liquidation plan; and
- (iv) An unincorporated foundation.

(3) “Trust” does not include:

(i) A real estate investment trust as defined in § 8–101 of the Corporations and Associations Article;

(ii) A business trust as defined in § 12-101(c) of the Corporations and Associations Article; or

(iii) A trust, formed under the law of another state or a foreign country, that authorizes a trust to take, hold, and dispose of title to property in the name of the trust.

(b) (1) A grant of property by deed to a grantee designated in the deed as a trust has the same effect as if the grantor had granted the property to the trustee or trustees appointed and acting for the trust on the effective date of the deed.

**(2) ~~A~~ IF EXECUTED BY THE TRUSTEE OR TRUSTEES APPOINTED AND ACTING FOR THE TRUST ON THE EFFECTIVE DATE OF THE DEED, A GRANT OF PROPERTY BY DEED FROM A GRANTOR DESIGNATED IN THE DEED AS A TRUST HAS THE SAME EFFECT AS IF THE GRANTEE HAD RECEIVED THE PROPERTY FROM THE TRUSTEE OR TRUSTEES APPOINTED AND ACTING FOR THE TRUST ON THE EFFECTIVE DATE OF THE DEED.**

**[(2)] (C) (1)** A grant of property by deed to a grantee designated in the deed as an estate of a decedent, including the estate of a nonresident decedent, has the same effect as if the grantor had granted the property to:

(i) The personal representative or personal representatives appointed by a register of wills or orphans' court in the State for the estate and acting as the personal representative on the effective date of the deed; or

(ii) A foreign personal representative exercising the powers of the office for the estate of a nonresident decedent on the effective date of the deed.

**(2) ~~A~~ IF EXECUTED BY THE PERSON OR PERSONS INDICATED IN ITEM (I) OR (II) OF THIS PARAGRAPH AS APPLICABLE, A GRANT OF PROPERTY BY DEED FROM A GRANTOR DESIGNATED IN THE DEED AS AN ESTATE OF A DECEDENT, INCLUDING THE ESTATE OF A NONRESIDENT DECEDENT, HAS THE SAME EFFECT AS IF THE GRANTEE HAD RECEIVED THE PROPERTY FROM:**

**(I) THE PERSONAL REPRESENTATIVE OR PERSONAL REPRESENTATIVES APPOINTED BY A REGISTER OF WILLS OR ORPHANS' COURT IN THE STATE FOR THE ESTATE AND ACTING AS THE PERSONAL REPRESENTATIVE ON THE EFFECTIVE DATE OF THE DEED; OR**

**(II) A FOREIGN PERSONAL REPRESENTATIVE EXERCISING THE POWERS OF THE OFFICE FOR THE ESTATE OF A NONRESIDENT DECEDENT ON THE EFFECTIVE DATE OF THE DEED.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act applies to any grant of property by a trust or estate contained in a deed existing on or after the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 282

### (House Bill 337)

AN ACT concerning

#### **Real Property – Effect of Deed Granting Property from Trust or Estate**

FOR the purpose of providing that a grant of property by deed from a certain trust has the same effect as if the grantee had received the property from a certain trustee under certain circumstances; providing that a grant of property by deed from a certain estate has the same effect as if the grantee had received the property from a certain personal representative under certain circumstances; providing for the application of this Act; and generally relating to grants of property by deed from certain trusts or estates.

BY repealing and reenacting, with amendments,

Article – Real Property

Section 2–122

Annotated Code of Maryland

(2003 Replacement Volume and 2009 Supplement)

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

#### **Article – Real Property**

2–122.

(a) (1) In this section, “trust” means an express inter vivos or testamentary trust.

(2) “Trust” includes the following instruments or funding arrangements in the nature of a trust:

(i) A profit sharing plan;

- (ii) A retirement plan;
- (iii) A liquidating or liquidation plan; and
- (iv) An unincorporated foundation.

(3) "Trust" does not include:

(i) A real estate investment trust as defined in § 8–101 of the Corporations and Associations Article;

(ii) A business trust as defined in § 12–101(c) of the Corporations and Associations Article; or

(iii) A trust, formed under the law of another state or a foreign country, that authorizes a trust to take, hold, and dispose of title to property in the name of the trust.

(b) (1) A grant of property by deed to a grantee designated in the deed as a trust has the same effect as if the grantor had granted the property to the trustee or trustees appointed and acting for the trust on the effective date of the deed.

**(2) ~~A~~ IF EXECUTED BY THE TRUSTEE OR TRUSTEES APPOINTED AND ACTING FOR THE TRUST ON THE EFFECTIVE DATE OF THE DEED, A GRANT OF PROPERTY BY DEED FROM A GRANTOR DESIGNATED IN THE DEED AS A TRUST HAS THE SAME EFFECT AS IF THE GRANTEE HAD RECEIVED THE PROPERTY FROM THE TRUSTEE OR TRUSTEES APPOINTED AND ACTING FOR THE TRUST ON THE EFFECTIVE DATE OF THE DEED.**

**[(2)] (C) (1)** A grant of property by deed to a grantee designated in the deed as an estate of a decedent, including the estate of a nonresident decedent, has the same effect as if the grantor had granted the property to:

(i) The personal representative or personal representatives appointed by a register of wills or orphans' court in the State for the estate and acting as the personal representative on the effective date of the deed; or

(ii) A foreign personal representative exercising the powers of the office for the estate of a nonresident decedent on the effective date of the deed.

**(2) ~~A~~ IF EXECUTED BY THE PERSON OR PERSONS INDICATED IN ITEM (I) OR (II) OF THIS PARAGRAPH AS APPLICABLE, A GRANT OF PROPERTY BY DEED FROM A GRANTOR DESIGNATED IN THE DEED AS AN ESTATE OF A DECEDENT, INCLUDING THE ESTATE OF A NONRESIDENT DECEDENT, HAS THE SAME EFFECT AS IF THE GRANTEE HAD RECEIVED THE PROPERTY FROM:**

**(I) THE PERSONAL REPRESENTATIVE OR PERSONAL REPRESENTATIVES APPOINTED BY A REGISTER OF WILLS OR ORPHANS' COURT IN THE STATE FOR THE ESTATE AND ACTING AS THE PERSONAL REPRESENTATIVE ON THE EFFECTIVE DATE OF THE DEED; OR**

**(II) A FOREIGN PERSONAL REPRESENTATIVE EXERCISING THE POWERS OF THE OFFICE FOR THE ESTATE OF A NONRESIDENT DECEDENT ON THE EFFECTIVE DATE OF THE DEED.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act applies to any grant of property by a trust or estate contained in a deed existing on or after the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 283**

### **(Senate Bill 361)**

AN ACT concerning

#### **Natural Resources – Local Forest Conservation Funds – Use of Money**

FOR the purpose of repealing the requirement that, at the end of a certain time period, unused money in a local forest conservation fund be returned to certain persons for certain purposes; and generally relating to the use of money in a local forest conservation fund.

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 5–1610

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

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

#### **Article – Natural Resources**

5–1610.

- (a) In this section, "Fund" means the Forest Conservation Fund.
- (b) There is a Forest Conservation Fund in the Department.
- (c) Except as provided in subsection (h) of this section, if any person subject to this subtitle demonstrates to the satisfaction of the appropriate State or local authority that the requirements for reforestation or afforestation on-site or off-site cannot be reasonably accomplished, the person shall contribute money to the Fund:
- (1) Until September 30, 2014, at a rate of 30 cents per square foot of the area of required planting; and
- (2) After September 30, 2014, at a rate adjusted for inflation as determined by the Department annually by regulation.
- (d) Money collected by the State or a local authority under § 5-1608(c) or § 5-1612 of this subtitle for noncompliance with this subtitle or regulations adopted under this subtitle or for noncompliance with a forest conservation plan or the associated 2-year management agreement shall be deposited in the Fund.
- (e) (1) The Department shall accomplish the reforestation or afforestation for which the money is deposited within 2 years or 3 growing seasons, as appropriate, after receipt of the money.
- (2) Money deposited in the Fund under subsection (c) of this section shall remain in the Fund for a period of 2 years or 3 growing seasons, and at the end of that time period, any portion that has not been used to meet the afforestation or reforestation requirements shall be returned to the person who provided the money to be used for documented tree planting in the same county or watershed beyond that required by this subtitle or other applicable statutes.
- (f) (1) (i) Money deposited in the Fund under subsection (c) of this section may only be spent on reforestation and afforestation, including site identification, acquisition, and preparation, maintenance of existing forests, and achieving urban canopy goals, and may not revert to the General Fund of the State.
- (ii) Any investment earnings of the Fund shall be credited to the General Fund of the State.
- (2) (i) Except as provided in subparagraph (ii) or (iii) of this paragraph, the reforestation or afforestation requirement under this subsection shall occur in the county and watershed in which the project is located.
- (ii) If the reforestation or afforestation cannot be reasonably accomplished in the county and watershed in which the project is located, then the

reforestation or afforestation shall occur in the county or watershed in the State in which the project is located.

(iii) If the reforestation or afforestation cannot be reasonably accomplished in the county or watershed in which the project is located, then the reforestation or afforestation shall be accomplished through purchase of credits in, establishment, or maintenance of a forest mitigation bank in accordance with regulations of the Department. The Reforestation Fund may not be used to finance administrative activities associated with a mitigation bank and any credits created by the Reforestation Fund may not be sold to compensate for additional forest impacts.

(g) Money deposited in the Fund under subsection (d) of this section may be used by the Department for the purpose of implementing this subtitle.

(h) (1) In lieu of a State Forest Conservation Fund, any local authority with an approved forest conservation program may establish a forest conservation fund, to be administered by the local authority, to allow a payment by any person who has demonstrated to the satisfaction of the local authority that the requirements for reforestation and afforestation on-site and off-site cannot be reasonably accomplished.

(2) The rate shall be the same as the rate established for the State Forest Conservation Fund under subsection (c) of this section.

(i) [Money deposited in the local forest conservation fund under subsection (h) of this section shall remain in the fund for a period of 2 years or 3 growing seasons. At the end of that time period, any portion that has not been used to meet the afforestation or reforestation requirements shall be returned to the person who provided the money to be used for documented tree planting in the same county or watershed beyond that required by this subtitle or other applicable statutes.

(j)] (1) Money deposited in the local forest conservation fund under subsection (h) of this section may only be spent on reforestation and afforestation, including the costs directly related to site identification, acquisition, prepurchase, and preparation, maintenance of existing forests, and achieving urban canopy goals, and may not revert to any other local general fund.

(2) (i) Except as provided in subparagraph (ii) or (iii) of this paragraph, the reforestation or afforestation requirement under this subsection shall occur in the county and watershed in which the project is located.

(ii) If the reforestation or afforestation cannot be reasonably accomplished in the county and watershed in which the project is located, then the reforestation or afforestation shall occur in the county or watershed in the State in which the project is located.

(iii) If the reforestation or afforestation cannot be reasonably accomplished in the county or watershed in which the project is located, then the reforestation or afforestation shall be accomplished through purchase of credits in, establishment, or maintenance of a forest mitigation bank in accordance with regulations of the local forest conservation program. The Reforestation Fund may not be used to finance administrative activities associated with a mitigation bank and any credits created by the Reforestation Fund may not be sold to compensate for additional forest impacts.

**[(k)] (J)** Money collected by the local authority under § 5–1608(c) of this subtitle for noncompliance with this subtitle or regulations or ordinances adopted under this subtitle for noncompliance with a forest conservation plan or the associated 2–year management agreement shall be deposited in the local fund. The rate shall be 30 cents per square foot of the area found to be in noncompliance with the required forest conservation.

**[(l)] (K)** Money deposited in a local forest conservation fund under subsection **[(k)] (J)** of this section may be used by the local authority for purposes related to implementing this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 284**

### **(House Bill 606)**

AN ACT concerning

#### **Natural Resources – Local Forest Conservation Funds – Use of Money**

FOR the purpose of repealing the requirement that, at the end of a certain time period, unused money in a local forest conservation fund be returned to certain persons for certain purposes; and generally relating to the use of money in a local forest conservation fund.

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 5–1610

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

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

**Article – Natural Resources**

5–1610.

(a) In this section, “Fund” means the Forest Conservation Fund.

(b) There is a Forest Conservation Fund in the Department.

(c) Except as provided in subsection (h) of this section, if any person subject to this subtitle demonstrates to the satisfaction of the appropriate State or local authority that the requirements for reforestation or afforestation on–site or off–site cannot be reasonably accomplished, the person shall contribute money to the Fund:

(1) Until September 30, 2014, at a rate of 30 cents per square foot of the area of required planting; and

(2) After September 30, 2014, at a rate adjusted for inflation as determined by the Department annually by regulation.

(d) Money collected by the State or a local authority under § 5–1608(c) or § 5–1612 of this subtitle for noncompliance with this subtitle or regulations adopted under this subtitle or for noncompliance with a forest conservation plan or the associated 2–year management agreement shall be deposited in the Fund.

(e) (1) The Department shall accomplish the reforestation or afforestation for which the money is deposited within 2 years or 3 growing seasons, as appropriate, after receipt of the money.

(2) Money deposited in the Fund under subsection (c) of this section shall remain in the Fund for a period of 2 years or 3 growing seasons, and at the end of that time period, any portion that has not been used to meet the afforestation or reforestation requirements shall be returned to the person who provided the money to be used for documented tree planting in the same county or watershed beyond that required by this subtitle or other applicable statutes.

(f) (1) (i) Money deposited in the Fund under subsection (c) of this section may only be spent on reforestation and afforestation, including site identification, acquisition, and preparation, maintenance of existing forests, and achieving urban canopy goals, and may not revert to the General Fund of the State.

(ii) Any investment earnings of the Fund shall be credited to the General Fund of the State.

(2) (i) Except as provided in subparagraph (ii) or (iii) of this paragraph, the reforestation or afforestation requirement under this subsection shall occur in the county and watershed in which the project is located.

(ii) If the reforestation or afforestation cannot be reasonably accomplished in the county and watershed in which the project is located, then the reforestation or afforestation shall occur in the county or watershed in the State in which the project is located.

(iii) If the reforestation or afforestation cannot be reasonably accomplished in the county or watershed in which the project is located, then the reforestation or afforestation shall be accomplished through purchase of credits in, establishment, or maintenance of a forest mitigation bank in accordance with regulations of the Department. The Reforestation Fund may not be used to finance administrative activities associated with a mitigation bank and any credits created by the Reforestation Fund may not be sold to compensate for additional forest impacts.

(g) Money deposited in the Fund under subsection (d) of this section may be used by the Department for the purpose of implementing this subtitle.

(h) (1) In lieu of a State Forest Conservation Fund, any local authority with an approved forest conservation program may establish a forest conservation fund, to be administered by the local authority, to allow a payment by any person who has demonstrated to the satisfaction of the local authority that the requirements for reforestation and afforestation on-site and off-site cannot be reasonably accomplished.

(2) The rate shall be the same as the rate established for the State Forest Conservation Fund under subsection (c) of this section.

(i) [Money deposited in the local forest conservation fund under subsection (h) of this section shall remain in the fund for a period of 2 years or 3 growing seasons. At the end of that time period, any portion that has not been used to meet the afforestation or reforestation requirements shall be returned to the person who provided the money to be used for documented tree planting in the same county or watershed beyond that required by this subtitle or other applicable statutes.

(j)] (1) Money deposited in the local forest conservation fund under subsection (h) of this section may only be spent on reforestation and afforestation, including the costs directly related to site identification, acquisition, prepurchase, and preparation, maintenance of existing forests, and achieving urban canopy goals, and may not revert to any other local general fund.

(2) (i) Except as provided in subparagraph (ii) or (iii) of this paragraph, the reforestation or afforestation requirement under this subsection shall occur in the county and watershed in which the project is located.

(ii) If the reforestation or afforestation cannot be reasonably accomplished in the county and watershed in which the project is located, then the reforestation or afforestation shall occur in the county or watershed in the State in which the project is located.

(iii) If the reforestation or afforestation cannot be reasonably accomplished in the county or watershed in which the project is located, then the reforestation or afforestation shall be accomplished through purchase of credits in, establishment, or maintenance of a forest mitigation bank in accordance with regulations of the local forest conservation program. The Reforestation Fund may not be used to finance administrative activities associated with a mitigation bank and any credits created by the Reforestation Fund may not be sold to compensate for additional forest impacts.

~~[(k)]~~ **(J)** Money collected by the local authority under § 5–1608(c) of this subtitle for noncompliance with this subtitle or regulations or ordinances adopted under this subtitle for noncompliance with a forest conservation plan or the associated 2–year management agreement shall be deposited in the local fund. The rate shall be 30 cents per square foot of the area found to be in noncompliance with the required forest conservation.

~~[(l)]~~ **(K)** Money deposited in a local forest conservation fund under subsection ~~[(k)]~~ **(J)** of this section may be used by the local authority for purposes related to implementing this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 285**

**(Senate Bill 377)**

AN ACT concerning

### **Baltimore City – Alcoholic Beverages – Class C Licensees to Reimburse Board for Costs**

FOR the purpose of authorizing the Baltimore City Board of Liquor License Commissioners to collect reimbursement from a holder of a Class C special beer, wine and liquor license for costs the Board incurs while monitoring the event for which the Class C license is issued; and generally relating to alcoholic beverages licenses in Baltimore City.

BY repealing and reenacting, with amendments,  
 Article 2B – Alcoholic Beverages  
 Section 7–101(d)(3)  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2009 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.

(d) (3) In Baltimore City:

(i) The holder of a Class C special beer, wine and liquor license may purchase beer and light wine from a wholesale dealer.

(ii) [The fee is \$50 per day] **THE BOARD OF LIQUOR LICENSE COMMISSIONERS MAY COLLECT FROM THE HOLDER OF THE CLASS C SPECIAL BEER, WINE AND LIQUOR LICENSE:**

1. **A LICENSE FEE OF \$50 PER DAY; AND**
2. **REIMBURSEMENT FOR COSTS INCURRED WHILE MONITORING THE EVENT FOR WHICH THE LICENSE IS ISSUED.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

**Approved by the Governor, May 4, 2010.**

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**Chapter 286**

**(Senate Bill 382)**

AN ACT concerning

**Marine Contractors – Licensure and Regulation – ~~Wetland Permits and Authorizations~~ – Tidal Wetlands Licenses**

FOR the purpose of exempting certain licensed marine contractors from certain home improvement contractor licensing requirements; requiring the Department of the Environment to make certain notifications regarding certain wetlands

license applications and delineations on or before a certain length of time; requiring the Department to grant, deny, or condition certain tidal wetlands licenses on or before a certain length of time under certain circumstances; requiring the Department to issue a certain public notice and provide an opportunity to submit certain comments or request a certain hearing under certain circumstances; establishing a Marine Contractors Licensing Board; providing for the membership of the Board; requiring certain persons to be licensed as marine contractors by the Department of the Environment Board before performing certain work in this State; authorizing the Secretary of the Environment to exercise certain powers to carry out the Secretary's duties *establishing a certain exception to a certain licensing requirement; establishing certain powers and duties of the Board with respect to the licensing and regulation of marine contractors; requiring the Board to recommend certain regulations for adoption by the Secretary to adopt certain regulations and of the Environment and to keep a certain ~~register~~ record containing certain information relating to licensed marine contractors; providing that an applicant for a marine contractor's license must meet certain criteria; requiring an applicant for a marine contractor's license to submit certain documents and pay a certain fee; requiring that the application form provided by the Secretary Board require certain information from the applicant; requiring that the application form provided by the Secretary Board contain a certain statement; requiring the applicant to sign the application form under oath; prohibiting the Secretary Board from issuing a license under certain circumstances; requiring the Secretary Board to issue a license of a certain duration to certain applicants; requiring the Secretary Board to include certain information on the license; providing that a license is void under certain circumstances;* providing that while a license is in effect, it authorizes the licensee to take certain actions; requiring a licensed marine contractor to include the contractor's license number in certain advertising and to display it on certain equipment; requiring the Secretary to adopt regulations to stagger the terms of licenses; providing for the expiration and renewal of certain licenses; requiring the Secretary Board to mail a renewal form and notice containing certain information to the applicant at a certain address by a certain time; authorizing a licensed marine contractor to renew ~~the~~ a license under certain circumstances, including payment of a ~~certain fee~~ certain fees; requiring the Secretary Board to renew the license of a licensed marine contractor under certain circumstances; requiring a licensee that is ~~a firm~~ an entity to provide written notice to the Secretary Board under certain circumstances; authorizing the Secretary Board to deny, suspend, or revoke the license under certain circumstances; requiring the Secretary Board to follow certain notice procedures and hold a certain hearing before taking final action to deny, refuse to renew, revoke, or suspend the license; providing that acts or omissions by certain parties may be attributed to certain applicants or licensees; providing for certain penalties for knowingly violating certain provisions of law; establishing a civil penalty for certain violations; requiring certain penalties that are collected to be paid into the Wetlands and Waterways Program Fund for administration of the Board; ~~requiring the Department to grant, deny, or condition certain nontidal wetlands permits on or before a~~

~~certain length of time under certain circumstances; exempting a certain project from a certain permit application fee; requiring a flat application fee for certain wetlands permits or authorizations under certain circumstances; providing licensed marine contractors with immunity from civil suit under certain circumstances; requiring the Department to provide certain information on the Department's website and make a final decision on a certain permit application by a certain time under certain circumstances; requiring the Department to exempt licensed marine contractors from certain permitting requirements for certain projects; requiring the Department to adopt by regulation certain criteria to identify the projects qualifying for exemption in consultation with a certain association; requiring a person to hire or consult a licensed marine contractor under certain circumstances; providing that certain property owners are not required to hire a licensed marine contractor under certain circumstances; establishing a certain administrative fines fine for failing to hire or consult a licensee as required; establishing a certain notification requirement applicable to the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays; providing for certain processing times for certain tidal wetlands license applications; requiring the Department to adopt certain regulations for certain purposes; defining certain terms and altering the definition of a certain term; requiring all marine contractors performing certain services to register with the Department and pay a certain fee on or before a certain date; prohibiting a marine contractor that fails to register from performing or soliciting to perform certain services after a certain date; requiring the Department, for certain initial recommendations of appointments to the Board, to select marine contractors from a certain list; and generally relating to the licensure and regulation of marine contractors and the wetlands permitting and authorization process.~~

BY repealing and reenacting, with amendments,

Article – Business Regulation

Section 8–301

Annotated Code of Maryland

(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Environment

Section 16–101(h) through (n) and 16–202

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

BY adding to

Article – ~~Business Occupations and Professions~~ Environment

Section ~~22–101 through 22–401~~ 16–101(h) and 16–106; and 17–101 through 17–403 to be under the new title “Title 22, 17, Marine Contractors”

Annotated Code of Maryland

~~(2004~~ 2007 Replacement Volume and 2009 Supplement)

~~BY repealing and reenacting, with amendments,~~

~~Article – Environment~~

~~Section 1-607(b), 5-101, 5-203.1(a)(3), (b), (d), and (e), and 16-101~~

~~Annotated Code of Maryland~~

~~(2007 Replacement Volume and 2009 Supplement)~~

~~BY repealing and reenacting, without amendments,~~

~~Article – Environment~~

~~Section 5-203.1(a)(1)~~

~~Annotated Code of Maryland~~

~~(2007 Replacement Volume and 2009 Supplement)~~

~~BY adding to~~

~~Article – Environment~~

~~Section 5-203.1(d), 16-106, 16-107, and 16-108~~

~~Annotated Code of Maryland~~

~~(2007 Replacement Volume and 2009 Supplement)~~

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

### **Article – Business Regulation**

8-301.

(a) Except as otherwise provided in this title, a person must have a contractor license whenever the person acts as a contractor in the State.

(b) Except as otherwise provided in this title, a person must have a subcontractor license or contractor license whenever the person acts as a subcontractor in the State.

(c) Except as otherwise provided in this title, a person must have a salesperson license or contractor license whenever the person sells a home improvement in the State.

(d) This section does not apply to:

(1) an individual who works for a contractor or subcontractor for a salary or wages but who is not a salesperson for the contractor;

(2) a clerical employee, retail clerk, or other employee of a licensed contractor who is not a salesperson, as to a transaction on the premises of the licensed contractor;

(3) a solicitor for a contractor who calls an owner by telephone only;

(4) an architect, electrician, plumber, heating, ventilation, air-conditioning, or refrigeration contractor, or other person who:

(i) is required by State or local law to meet standards of competency or experience before engaging in an occupation or profession;

(ii) currently is licensed in that occupation or profession under State or local law; and

(iii) is:

1. acting only within the scope of that occupation or profession; or

2. installing a central heating or air-conditioning system;

(5) a security systems technician licensed under Title 18 of the Business Occupations and Professions Article; [or]

**(6) A MARINE CONTRACTOR LICENSED UNDER TITLE 17, SUBTITLE 3 OF THE ENVIRONMENT ARTICLE; OR**

**[(6)] (7)** a person who is selling a home improvement to be performed by a person described in item (4) of this subsection.

### **Article – Environment**

16–101.

**(h) “LICENSED MARINE CONTRACTOR” HAS THE MEANING STATED IN TITLE 17, SUBTITLE 3 OF THIS ARTICLE.**

**(I) (1) “Pier” means any pier, wharf, dock, walkway, bulkhead, breakwater, piles, or other similar structure.**

(2) “Pier” does not include any structure on pilings or stilts that was originally constructed beyond the landward boundaries of State or private wetlands.

**[(i)] (J) “Person” means any natural person, partnership, joint-stock company, unincorporated association or society, the federal government, the State, any unit of the State, a political subdivision, or other corporation of any type.**

**[(i)] (K) (1) “Private wetlands” means any land not considered “State wetland” bordering on or lying beneath tidal waters, which is subject to regular or periodic tidal action and supports aquatic growth.**

(2) “Private wetlands” includes wetlands, transferred by the State by a valid grant, lease, patent, or grant confirmed by Article 5 of the Maryland Declaration of Rights, to the extent of the interest transferred.

~~[(k)]~~ (L) (1) “Public notice” means the public notice and public informational hearing procedures established in § 5–204(b) through (e) of this article.

(2) “Public notice” does not mean notice as provided for in § 16–303 of this title.

~~[(l)]~~ (M) “Regular or periodic tidal action” means the rise and fall of the sea produced by the attraction of the sun and moon uninfluenced by wind or any other circumstance.

~~[(m)]~~ (N) “Secretary” means the Secretary of the Environment.

~~[(n)]~~ (O) “State wetlands” means any land under the navigable waters of the State below the mean high tide, affected by the regular rise and fall of the tide. Wetlands of this category which have been transferred by the State by valid grant, lease, patent or grant confirmed by Article 5 of the Maryland Declaration of Rights shall be considered “private wetland” to the extent of the interest transferred.

## **16–106.**

**(A) (1) A PERSON THAT UNDERTAKES OR AUTHORIZES AN ACTIVITY THAT REQUIRES A LICENSE OR PERMIT UNDER THIS TITLE SHALL:**

**(I) HIRE A LICENSED MARINE CONTRACTOR TO DO THE WORK; OR**

**(II) BE A LICENSED MARINE CONTRACTOR.**

**(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A ~~HOMEOWNER~~ RESIDENTIAL OR COMMERCIAL PROPERTY OWNER SHALL BE EXEMPT FROM THE REQUIREMENT TO BE OR TO HIRE A LICENSED MARINE CONTRACTOR UNDER SUBSECTION (A) OF THIS SECTION IF:**

**(I) THE ~~HOMEOWNER~~ PROPERTY OWNER PERFORMS MARINE CONTRACTOR SERVICES ON THE ~~HOMEOWNER’S~~ PROPERTY OWNER’S OWN PROPERTY; AND**

**(II) THE ~~HOMEOWNER~~ PROPERTY OWNER OBTAINS THE NECESSARY TIDAL WETLANDS LICENSES OR PERMITS REQUIRED UNDER THIS TITLE.**

(B) (1) A PERSON WHO VIOLATES SUBSECTION (A) OF THIS SECTION OR ANY REGULATION ADOPTED UNDER THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$10,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

(2) EACH DAY THAT A PERSON CONDUCTS MARINE CONTRACTOR SERVICES WITHOUT A LICENSE CONSTITUTES A SEPARATE OFFENSE.

(C) (1) IN ADDITION TO ANY OTHER SANCTION UNDER THIS SECTION, A CIVIL ACTION MAY BE BROUGHT AGAINST A PERSON FOR A VIOLATION OF SUBSECTION (A) OF THIS SECTION OR ANY REGULATION ADOPTED UNDER THIS SECTION.

(2) A PERSON MAY BE LIABLE FOR A CIVIL PENALTY UNDER THIS SUBSECTION NOT TO EXCEED \$10,000 FOR EACH VIOLATION.

(D) ANY PENALTIES COLLECTED UNDER THIS SECTION SHALL BE PAID INTO THE WETLANDS AND WATERWAYS PROGRAM FUND ESTABLISHED UNDER § 5-203.1 OF THIS ARTICLE, FOR THE ADMINISTRATION OF THE MARINE CONTRACTORS LICENSING BOARD ESTABLISHED UNDER TITLE 17 OF THIS ARTICLE.

(E) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ADMINISTER AND ENFORCE THE PROVISIONS OF THIS SECTION.

16-202.

(a) A person may not dredge or fill on State wetlands without a license.

(B) TO APPLY FOR A LICENSE, THE APPLICANT SHALL SUBMIT A DELINEATION OF THE AFFECTED TIDAL WETLANDS AND ALL OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

(C) (1) ~~WITHIN~~ SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, WITHIN 45 DAYS FROM RECEIPT OF THE APPLICATION, THE DEPARTMENT SHALL NOTIFY THE APPLICANT WHETHER THE APPLICATION IS COMPLETE AND WHETHER THE DELINEATION IS CORRECT.

(2) ~~IF~~ SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IF THE DEPARTMENT FAILS TO NOTIFY THE APPLICANT ABOUT THE APPLICATION OR DELINEATION WITHIN 45 DAYS, THE DELINEATION SHALL BE TREATED BY THE DEPARTMENT AS CORRECT, AND THE APPLICATION SHALL BE TREATED AS COMPLETE.

(3) UPON WRITTEN NOTICE TO THE APPLICANT, THE DEPARTMENT MAY PROVIDE FOR AN EXTENSION OF THE DEADLINE UNDER THIS SUBSECTION IF THE FOLLOWING EXTENUATING CIRCUMSTANCES PREVENT CONSIDERATION OF THE APPLICATION:

(I) INCLEMENT WEATHER CONDITIONS;

(II) A REVIEW IS REQUIRED BY A FEDERAL, STATE, OR LOCAL GOVERNMENT AGENCY; OR

(III) A REQUEST IS MADE BY AN APPLICANT.

(D) (1) ONCE SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ONCE THE APPLICATION IS COMPLETE IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION, THE DEPARTMENT SHALL GRANT, DENY, OR CONDITION A LICENSE WITHIN 45 DAYS IF:

~~(1)~~ (I) THE APPLICATION IS NOT SUBJECT TO PUBLIC NOTICE AND HEARING REQUIREMENTS UNDER SUBSECTION (G) OF THIS SECTION; OR

~~(2)~~ (II) THE APPLICATION DOES NOT REQUIRE AN ACTION BY THE BOARD.

(2) UPON WRITTEN NOTICE TO THE APPLICANT, THE DEPARTMENT MAY PROVIDE FOR A 30-DAY EXTENSION OF THE DEADLINE UNDER THIS SUBSECTION FOR THE FOLLOWING EXTENUATING CIRCUMSTANCES:

(I) A REVIEW IS REQUIRED BY A FEDERAL, STATE, OR LOCAL GOVERNMENT AGENCY; OR

(II) A REQUEST IS MADE BY AN APPLICANT.

(E) (1) ONCE THE APPLICATION IS COMPLETE UNDER SUBSECTION (C) OF THIS SECTION, THE DEPARTMENT SHALL ISSUE PUBLIC NOTICE OF AN OPPORTUNITY TO SUBMIT WRITTEN COMMENTS OR TO REQUEST A HEARING IN ACCORDANCE WITH § 5-204(B) THROUGH (E) OF THIS ARTICLE.

(2) A HEARING REQUESTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE HELD WITHIN 45 DAYS OF THE HEARING REQUEST, UNLESS EXTENUATING CIRCUMSTANCES JUSTIFY AN EXTENSION OF TIME.

**(3) THE HEARING THAT MAY BE REQUESTED UNDER THIS SUBSECTION IS NOT A CONTESTED CASE HEARING UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.**

**[(b)] (F)** The Secretary shall assist the Board in determining whether to issue a license to dredge or fill State wetlands. The Secretary shall submit a report indicating whether the license should be granted and, if so, the terms, conditions, and consideration required after consultation with any interested federal, State, and local unit, and after issuing public notice, holding any requested hearing, and taking any evidence the Secretary thinks advisable.

**[(c)] (G)** (1) Upon receipt of a report by the Secretary, the Board shall decide if issuance of the license is in the best interest of the State, taking into account the varying ecological, economic, developmental, recreational, and aesthetic values each application presents. If the Board decides to issue the license, the issuance of the license shall be for consideration and on terms and conditions the Board determines. Every license shall be in writing.

(2) With respect to an application for a license to fill or construct a shore erosion control structure other than riprap on State wetlands, the Board may issue the license without public notice if the fill area is less than 300 feet in length parallel to the fast land as close to the fast land as structurally feasible but not more than 10 feet channelward of the mean high water line and if after a site visit the report of the Secretary recommends that the license be granted. The Board may issue a license without public notice where an emergency exists caused by act of God, natural disaster, catastrophe, or other similar natural event when the health, safety, or welfare of the citizens of the State would be jeopardized by a delay caused by time requirements for public notice. However, the license may be granted by the Board only with the concurrence of the Secretary. The Secretary shall provide prompt public notice of the emergency license issuance and the opportunity to submit written comments or to request a hearing to determine whether the emergency license shall be revoked or made permanent. If a hearing is requested, the hearing shall be scheduled within 30 days of the emergency issuance of the license.

(3) If the report of the Secretary recommends that a license be granted, the Board may issue the license without public notice:

(i) To fill or construct a shore erosion control structure of riprap on State wetlands if the fill area is less than 500 feet in length parallel to the fast land as close to the fast land as structurally feasible but not more than 10 feet channelward of the mean high water line;

(ii) To repair or replace a bulkhead for the purpose of shore erosion control where the bulkhead is presently functional, but is deteriorating or damaged, provided that the repair or replacement structure does not extend more than 18 inches channelward of the existing structure. Repair or replacement may

include riprap placed along the base of the bulkhead, provided that the riprap shall not extend more than 10 feet channelward of the bulkhead;

(iii) To fill near shore shallow water bottom extending no more than 35 feet channelward of the mean high water line provided the fill area is less than 500 feet in length parallel to the fast land for the purpose of shore erosion control by landscaping and wetland plant establishment;

(iv) To construct or repair a private noncommercial boat ramp provided the ramp does not exceed 12 feet in width and extend more than 30 feet channelward of the mean high water line; or

(v) To maintenance dredge a mooring, private or commercial boat ramp, mobile boat hoist slip, or marine railway when no more than 100 cubic yards of material nor an area greater than 1,500 square feet need to be dredged.

(4) With respect to the maintenance dredging of projects in State wetlands for which a license is to be issued, the license may include provision for periodic maintenance dredging if recommended by the report of the Secretary provided that the maintenance dredging be effected:

(i) Within the area, depth, and in conformity with other limitations contained in the license;

(ii) That no more than 500 cubic yards of material be dredged at each maintenance dredging to restore licensed works;

(iii) That the material from maintenance dredging be deposited upon the designated or other upland site approved by the Secretary; and

(iv) That the Secretary be notified and approve of each maintenance dredging operation.

(5) The provisions for periodic maintenance dredging under paragraph (4) of this subsection shall be effective for no more than 6 years beyond the date of issuance of the license.

(6) If the licensee desires to continue maintenance dredging beyond the expiration date authorized in paragraph (5) of this subsection, the licensee must obtain a new license by submitting an application to the Board for review in accordance with the procedures of this section.

**[(d)] (H)** The provisions of this section do not apply to any operation for:

(1) Dredging and filling being conducted as of July 1, 1970, as authorized under the terms of an appropriate permit or license granted under the provisions of existing State and federal law;

(2) Dredging of seafood products by any licensed operator, harvesting of seaweed, or mosquito control and abatement as approved by the Department of Agriculture;

(3) Improvement of wildlife habitat or agricultural drainage ditches as approved by an appropriate unit;

(4) Routine maintenance or repair of existing bulkheads, provided that there is no addition or channelward encroachment; or

(5) Aquaculture activities occurring in Aquaculture Enterprise Zones established under Title 4, Subtitle 11A of the Natural Resources Article under an aquaculture lease issued by the Department of Natural Resources.

**[(e)] (I)** (1) The Board may not approve a license or an amendment to a license authorizing the dredge material deposited in the Hart–Miller Island Dredged Material Containment Facility to exceed an elevation of:

(i) 44 feet above the mean low water mark in the north cell; and

(ii) 28 feet above the mean low water mark in the south cell.

(2) On or after January 1, 2010, the Board may not approve a license or an amendment to a license authorizing the deposit of dredge material at the Hart–Miller Dredged Material Containment Facility.

~~Article – Business Occupations and Professions~~

~~TITLE 22. 17. MARINE CONTRACTORS.~~

~~SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.~~

~~22-101. 17-101.~~

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

(B) ~~“DEPARTMENT BOARD”~~ MEANS THE ~~DEPARTMENT OF THE ENVIRONMENT~~ MARINE CONTRACTORS LICENSING BOARD.

(C) ~~“FIRM ENTITY”~~ MEANS A BUSINESS WITH ITS PRINCIPAL OFFICE IN THE STATE THAT EMPLOYS MORE THAN ONE INDIVIDUAL TO PROVIDE MARINE CONTRACTOR SERVICES IN THE STATE.

(D) ~~(1)~~ “LICENSE” MEANS A PROFESSIONAL LICENSE ISSUED BY THE SECRETARY BOARD TO AN INDIVIDUAL OR ENTITY TO PROVIDE PERFORM MARINE CONTRACTOR SERVICES IN THE STATE.

~~(2) “LICENSE” MEANS A MARINE CONTRACTOR LICENSE.~~

(E) “LICENSED MARINE CONTRACTOR” MEANS ~~A PERSON WHO IS LICENSED BY THE SECRETARY TO PROVIDE MARINE CONTRACTOR SERVICES IN THE STATE~~ AN INDIVIDUAL OR ENTITY THAT HAS RECEIVED A LICENSE FROM THE BOARD TO PERFORM MARINE CONTRACTOR SERVICES.

(F) (1) “MARINE CONTRACTOR SERVICES” MEANS ~~THE CONSTRUCTION, DEMOLITION, INSTALLATION, ALTERATION, REPAIR, SALE, OR SALVAGE OF STRUCTURES ACTIVITIES LOCATED IN THE STATE’S, ON, OVER, OR UNDER STATE OR PRIVATE TIDAL AND NONTIDAL WETLANDS, INCLUDING BOATHOUSES, BOAT OR OTHER PERSONAL WATERCRAFT LIFTS OR RAMPS, DOCKS, FLOATING PLATFORMS, MOORINGS, PIERS, PIER ACCESS STRUCTURES, PILINGS, WETLAND OBSERVATION PLATFORMS, WETLAND WALKWAYS, AND WHARFS.~~

(2) “MARINE CONTRACTOR SERVICES” INCLUDES ~~THE~~:

(I) DREDGING AND FILLING;

(II) THE CONSTRUCTION, DEMOLITION, INSTALLATION, ALTERATION, REPAIR, OR SALVAGE OF STRUCTURES, INCLUDING BOATHOUSES, BOAT OR OTHER PERSONAL WATERCRAFT ~~LIFTS OR~~ RAMPS, SLIPS, DOCKS, FLOATING PLATFORMS, MOORINGS, PIERS, PIER ACCESS STRUCTURES, PILINGS, WETLAND OBSERVATION PLATFORMS, WETLAND WALKWAYS, AND WHARFS; AND

(III) THE CONSTRUCTION, DEMOLITION, INSTALLATION, ALTERATION, REPAIR, ~~SALE,~~ OR SALVAGE OF STABILIZATION AND EROSION CONTROL ~~MECHANISMS~~ MEASURES, INCLUDING REVETMENTS, BREAKWATERS, BULKHEADS, GROINS, JETTIES, ~~AND~~ STONE SILLS, MARSH ESTABLISHMENTS, AND BEACH NOURISHMENT OR OTHER SIMILAR PROJECTS.

~~(3) “MARINE CONTRACTOR SERVICES” DOES NOT INCLUDE THE INSTALLATION OR REPAIR OF BOAT LIFTS.~~

~~(G) “SECRETARY” MEANS THE SECRETARY OF THE ENVIRONMENT.~~

SUBTITLE 2. ~~SECRETARY~~ MARINE CONTRACTORS LICENSING BOARD.

~~22-201.~~ 17-201.

(A) THERE IS A MARINE CONTRACTORS LICENSING BOARD.

(B) SUBJECT TO THE PROVISIONS OF THIS TITLE, THE SECRETARY BOARD IS RESPONSIBLE FOR THE LICENSING AND REGULATION OF PERSONS INDIVIDUALS AND ENTITIES THAT PROVIDE MARINE CONTRACTOR SERVICES IN THE STATE.

17-202.

(A) (1) THE BOARD CONSISTS OF SEVEN MEMBERS APPOINTED BY THE GOVERNOR, WITH THE ADVICE OF THE SECRETARY, AND WITH THE ADVICE AND CONSENT OF THE SENATE.

(2) OF THE SEVEN MEMBERS:

(I) ONE SHALL BE EMPLOYED BY THE DEPARTMENT;

(II) ONE SHALL BE EMPLOYED BY THE DEPARTMENT OF NATURAL RESOURCES;

(III) THREE SHALL BE LICENSED MARINE CONTRACTORS AND SHALL INCLUDE:

1. ONE FROM ANNE ARUNDEL, CALVERT, CHARLES, PRINCE GEORGE'S, OR ST. MARY'S COUNTIES;

2. ONE FROM BALTIMORE CITY, OR BALTIMORE, CECIL, HARFORD, KENT, OR QUEEN ANNE'S COUNTIES; AND

3. ONE FROM CAROLINE, DORCHESTER, SOMERSET, TALBOT, WICOMICO, OR WORCESTER COUNTIES; AND

(IV) TWO SHALL BE PRIVATE CITIZENS, APPOINTED AT LARGE, WHO REPRESENT DIVERSE INTERESTS, AND SHALL INCLUDE:

1. ONE FROM BALTIMORE CITY, OR ANNE ARUNDEL, BALTIMORE, CALVERT, CHARLES, HARFORD, PRINCE GEORGE'S, OR ST. MARY'S COUNTIES; AND

2. ONE FROM CAROLINE, CECIL, DORCHESTER, KENT, QUEEN ANNE'S, SOMERSET, TALBOT, WICOMICO, OR WORCESTER COUNTIES.

(B) BEFORE TAKING OFFICE, EACH APPOINTEE TO THE BOARD SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

(C) (1) THE TERM OF A MEMBER OF THE BOARD IS 3 YEARS.

(2) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

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

(D) THE GOVERNOR MAY REMOVE A MEMBER FROM THE BOARD FOR INCOMPETENCE, MISCONDUCT, NEGLIGENCE OF DUTY, OR OTHER SUFFICIENT CAUSE.

17-203.

(A) FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR, VICE CHAIR, AND SECRETARY ANNUALLY.

(B) THE BOARD SHALL DETERMINE THE MANNER OF THE ELECTION OF OFFICERS.

17-204.

(A) THE BOARD SHALL MEET AT LEAST TWICE A YEAR, AT THE TIMES AND PLACES THAT THE BOARD DETERMINES.

(B) EACH MEMBER OF THE BOARD IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(C) THE BOARD MAY EMPLOY STAFF IN ACCORDANCE WITH THE STATE BUDGET.

~~22-202.~~ 17-205.

~~(A) IN ADDITION TO ANY POWERS SET FORTH ELSEWHERE, THE SECRETARY~~ THE BOARD MAY:

(1) ~~ADOPT~~ RECOMMEND REGULATIONS FOR ADOPTION BY THE SECRETARY TO CARRY OUT THE PROVISIONS OF THIS TITLE; AND

(2) ~~USE ANY MEMBER OF THE DEPARTMENT, AS NECESSARY, TO CARRY OUT AND ENFORCE THIS TITLE; AND~~

(3) ~~MAKE~~ MAKE INQUIRIES AND CONDUCT AN INVESTIGATION REGARDING ANY APPLICANT FOR A LICENSE.

(B) ~~IN ADDITION TO ANY DUTIES SET FORTH ELSEWHERE, THE SECRETARY~~ THE BOARD SHALL:

(1) ~~ADOPT REGULATIONS THAT SET STANDARDS FOR THE LICENSING OF A PERSON AS A MARINE CONTRACTOR; AND~~ CARRY OUT THE PROVISIONS OF THIS TITLE;

(2) COLLECT AND ACCOUNT FOR THE FEES PROVIDED FOR UNDER THIS TITLE; AND

(2) (3) ~~KEEP~~ KEEP A ROSTER CURRENT RECORD OF THE ALL INDIVIDUALS AND FIRMS WITH LICENSES ENTITIES LICENSED UNDER THIS TITLE, INCLUDING ON THE ROSTER:

(I) ~~THE~~ THE NAMES OF INDIVIDUALS AND ~~FIRMS~~ ENTITIES THAT ARE LICENSED;

(II) ~~THE LICENSE~~ THE ISSUANCE AND EXPIRATION DATES OF THE LICENSES; AND

(III) ~~ANY~~ ANY OTHER INFORMATION THAT THE ~~SECRETARY~~ BOARD CONSIDERS APPROPRIATE.

#### 17-206.

(A) (1) THE BOARD SHALL SET REASONABLE FEES FOR THE ISSUANCE AND RENEWAL OF LICENSES AND OTHER SERVICES THAT THE BOARD PROVIDES.

(2) THE FEES IMPOSED BY THE BOARD SHALL BE SET SO AS TO PRODUCE FUNDS TO APPROXIMATE THE COSTS OF MAINTAINING THE BOARD.

(B) THE BOARD SHALL PAY ALL FUNDS COLLECTED UNDER THIS TITLE INTO THE WETLANDS AND WATERWAYS PROGRAM FUND UNDER § 5-203.1 OF THIS ARTICLE FOR THE ADMINISTRATION OF THE BOARD.

SUBTITLE 3. ~~MARINE CONTRACTOR LICENSES~~ LICENSING.~~22-301.~~ 17-301.

(A) ~~A~~ EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A PERSON SHALL BE LICENSED BY THE SECRETARY BOARD AS A MARINE CONTRACTOR OR BE EMPLOYED BY AN INDIVIDUAL OR FIRM ENTITY THAT IS LICENSED AS A MARINE CONTRACTOR BEFORE THE PERSON MAY:

(1) ~~PROVIDE~~ PERFORM MARINE CONTRACTOR SERVICES IN THE STATE; OR

(2) ~~SOLICIT~~ SOLICIT TO ~~PROVIDE~~ PERFORM MARINE CONTRACTOR SERVICES IN THE STATE.

(B) AN INDIVIDUAL OR ~~A FIRM~~ AN ENTITY MAY QUALIFY FOR A LICENSE.

(C) AN INDIVIDUAL WHO IS EMPLOYED BY AN AGENCY OF THE FEDERAL GOVERNMENT OR THE STATE MAY PERFORM MARINE CONTRACTOR SERVICES WHILE IN THE PERFORMANCE OF THE DUTIES OF THEIR EMPLOYMENT WITHOUT HAVING TO OBTAIN A LICENSE FROM THE BOARD UNDER THIS TITLE.

(D) A RESIDENTIAL OR COMMERCIAL PROPERTY OWNER MAY PERFORM MARINE CONTRACTOR SERVICES ON THE PROPERTY OWNER'S OWN PROPERTY WITHOUT HAVING TO OBTAIN A LICENSE FROM THE BOARD UNDER THIS TITLE.

~~22-302.~~ 17-302.

(A) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL MEET THE REQUIREMENTS OF THIS SECTION AND ANY REGULATIONS ADOPTED UNDER THIS SECTION.

(B) IF THE APPLICANT IS ~~A FIRM~~ AN ENTITY, THE ~~FIRM~~ ENTITY SHALL APPOINT A MEMBER OF THE ~~FIRM~~ ENTITY AS THE REPRESENTATIVE MEMBER TO MAKE THE APPLICATION ON BEHALF OF THE ~~FIRM~~ ENTITY.

(C) AN INDIVIDUAL APPLICANT OR, IF THE APPLICANT IS ~~A FIRM~~ AN ENTITY, THE REPRESENTATIVE MEMBER SHALL:

(1) ~~HAVE~~ HAVE AT LEAST 2 YEARS OF EXPERIENCE AS A FULL-TIME MARINE CONTRACTOR OR DEMONSTRATE SIMILAR CONTRACTOR EXPERIENCE;

(2) ~~PASS~~ PASS A WRITTEN MARINE CONTRACTOR TEST RECOGNIZED BY THE ~~SECRETARY AND PREPARED IN CONSULTATION WITH THE MARYLAND MARINE CONTRACTORS ASSOCIATION~~ BOARD;

(3) ~~HAVE~~ HAVE A FEDERAL TAX IDENTIFICATION NUMBER; AND

(4) ~~BE REGISTERED AND IN GOOD STANDING WITH THE MARYLAND HOME IMPROVEMENT COMMISSION; AND~~

(5) ~~CARRY~~ CARRY:

(I) ~~COMMERCIAL~~ COMMERCIAL GENERAL LIABILITY INSURANCE WITH A \$300,000 TOTAL AGGREGATE MINIMUM; AND

(II) ~~WORKERS'~~ WORKERS' COMPENSATION INSURANCE, UNLESS EXEMPT BY LAW.

~~22-303.~~ 17-303.

(A) (1) ~~AN~~ TO APPLY FOR A LICENSE, AN APPLICANT ~~FOR A LICENSE~~ SHALL:

(I) ~~SUBMIT~~ SUBMIT TO THE ~~SECRETARY~~ BOARD AN APPLICATION ON THE FORM THAT THE ~~SECRETARY~~ BOARD PROVIDES;

(II) ~~SUBMIT~~ SUBMIT THE DOCUMENTS REQUIRED UNDER THIS SECTION; AND

(III) ~~PAY~~ PAY TO THE ~~SECRETARY~~ BOARD THE REQUIRED APPLICATION FEE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SET BY THE BOARD.

(2) IF THE APPLICANT IS ~~A FIRM~~ AN ENTITY, THE REPRESENTATIVE MEMBER SHALL COMPLETE THE APPLICATION FORM AND OTHERWISE BE RESPONSIBLE FOR THE ~~FIRM'S~~ ENTITY'S COMPLIANCE WITH THIS SECTION.

(B) ~~AN APPLICANT FOR A LICENSE SHALL PAY TO THE SECRETARY AN APPLICATION FEE OF \$500.~~

(C) (1) IF THE APPLICANT IS AN INDIVIDUAL, THE APPLICATION FORM PROVIDED BY THE ~~SECRETARY~~ BOARD SHALL REQUIRE:

(I) ~~THE~~ THE NAME OF THE APPLICANT;

(II) ~~THE~~ THE ADDRESS OF THE APPLICANT; AND

(III) ~~THE~~ THE CURRENT AND PREVIOUS EMPLOYMENT OF THE APPLICANT RELEVANT TO THE FIELD OF MARINE CONTRACTING.

(2) IF THE APPLICANT IS ~~A FIRM~~ AN ENTITY, THE APPLICATION FORM PROVIDED BY THE ~~SECRETARY~~ BOARD SHALL REQUIRE:

(I) ~~A~~ A LIST OF THE ~~FIRM'S~~ ENTITY'S OWNERS; AND

(II) ~~FOR~~ FOR EACH ~~FIRM~~ ENTITY OWNER, THE SAME INFORMATION REQUIRED REGARDING AN INDIVIDUAL APPLICANT UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) FOR ALL APPLICANTS, THE APPLICATION FORM SHALL REQUIRE:

(I) ~~THE~~ THE ADDRESS OF THE APPLICANT'S PROPOSED PRINCIPAL PLACE OF BUSINESS AND OF EACH PROPOSED BRANCH OFFICE;

(II) ~~ANY~~ ALL TRADE OR FICTITIOUS ~~NAME~~ NAMES THAT THE APPLICANT INTENDS TO USE WHILE ~~CONDUCTING THE BUSINESS OF MARINE CONTRACTING~~ PERFORMING MARINE CONTRACTOR SERVICES; AND

(III) ~~AS~~ AS THE ~~SECRETARY~~ BOARD CONSIDERS APPROPRIATE, ANY OTHER INFORMATION TO ASSIST IN THE EVALUATION OF:

1. ~~AN~~ AN INDIVIDUAL APPLICANT; OR

2. ~~IF~~ IF THE APPLICANT IS ~~A FIRM~~ AN ENTITY, ANY ~~FIRM~~ ENTITY MEMBER.

~~(D)~~ (C) THE APPLICATION FORM PROVIDED BY THE ~~SECRETARY~~ BOARD SHALL CONTAIN A STATEMENT ADVISING THE APPLICANT OF THE PENALTIES FOR VIOLATION OF THIS TITLE PROVIDED UNDER ~~§ 22-401~~ § 17-403 OF THIS TITLE.

~~(E)~~ (D) (1) IF THE APPLICANT IS AN INDIVIDUAL, THE ~~APPLICATION~~ INDIVIDUAL SHALL SIGN THE APPLICATION FORM ~~SHALL BE SIGNED,~~ UNDER OATH, ~~BY THE INDIVIDUAL.~~

(2) IF THE APPLICANT IS ~~A FIRM~~ AN ENTITY, ~~THE APPLICATION FORM SHALL BE SIGNED,~~ UNDER OATH, ~~BY THE REPRESENTATIVE MEMBER, AS~~

THE REPRESENTATIVE MEMBER OF THE ENTITY SHALL SIGN THE APPLICATION FORM UNDER OATH, AND SHALL PROVIDE PROOF TO THE ~~SECRETARY~~ BOARD THAT THE REPRESENTATIVE MEMBER IS A MEMBER OF THE ~~FIRM~~ ENTITY.

~~(F)~~ (E) AN APPLICANT FOR A LICENSE SHALL SUBMIT WITH THE APPLICATION PROOF OF THE INSURANCE REQUIRED UNDER ~~§ 22-302(C)(5)~~ § 17-302(C)(4) OF THIS SUBTITLE.

~~22-304.~~ 17-304.

THE ~~SECRETARY~~ BOARD MAY NOT ISSUE A LICENSE TO AN APPLICANT WHOSE TRADE OR FICTITIOUS NAME OR TRADEMARK IS SO SIMILAR TO THAT USED BY ANOTHER LICENSEE THAT THE PUBLIC MAY BE CONFUSED OR MISLED BY THE SIMILARITY.

~~22-305.~~ 17-305.

(A) THE ~~SECRETARY~~ BOARD SHALL ISSUE A LICENSE THAT IS VALID FOR 2 YEARS TO ~~EACH~~ ANY APPLICANT WHO MEETS THE REQUIREMENTS OF THIS ~~SUBTITLE~~ TITLE AND ANY REGULATION ADOPTED UNDER THIS TITLE.

(B) THE ~~SECRETARY~~ BOARD SHALL INCLUDE ON EACH LICENSE THAT THE ~~SECRETARY~~ BOARD ISSUES:

- (1) ~~THE~~ THE FULL NAME OF THE LICENSEE;
- (2) ~~THE~~ THE LICENSE NUMBER;
- (3) ~~THE~~ THE LOCATION OF THE PRINCIPAL OFFICE AND OF EACH BRANCH OFFICE IF THE LICENSEE IS ~~A FIRM~~ AN ENTITY;
- (4) ~~THE~~ THE DATE OF ISSUANCE OF THE LICENSE;
- (5) ~~THE~~ THE DATE ON WHICH THE LICENSE EXPIRES; AND
- (6) ~~THE~~ THE NAME OF THE REPRESENTATIVE MEMBER IF THE LICENSEE IS ~~A FIRM~~ AN ENTITY.

~~(C) A LICENSE ISSUED UNDER THIS TITLE IS VOID:~~

~~(1) ON THE LAPSE OF INSURANCE REQUIRED UNDER § 22-302(C)(5) OF THIS SUBTITLE; OR~~

~~(2) ON THE ISSUANCE OF THREE VIOLATION NOTICES BY THE DEPARTMENT TO THE LICENSEE.~~

~~22-306.~~ 17-306.

WHILE A LICENSE TO ~~A FIRM~~ AN ENTITY IS IN EFFECT, THE LICENSE AUTHORIZES THE ~~FIRM~~ ENTITY TO:

(1) ~~EMPLOY~~ EMPLOY AS MARINE CONTRACTORS INDIVIDUALS WHO ARE NOT LICENSED MARINE CONTRACTORS TO PROVIDE MARINE CONTRACTOR SERVICES TO THE PUBLIC ON BEHALF OF THE LICENSEE; AND

(2) ~~REPRESENT~~ REPRESENT ITSELF TO THE PUBLIC AS A LICENSED MARINE CONTRACTOR ~~FIRM~~ ENTITY.

~~22-307.~~ 17-307.

A LICENSED MARINE CONTRACTOR SHALL:

(1) ~~INCLUDE~~ INCLUDE THE CONTRACTOR'S MARINE CONTRACTOR LICENSE NUMBER IN ALL ADVERTISING RELATED TO THE PROVISION OF MARINE CONTRACTOR SERVICES; AND

(2) ~~PROMINENTLY~~ PROMINENTLY DISPLAY THE CONTRACTOR'S MARINE CONTRACTOR LICENSE NUMBER ON ALL LARGE EQUIPMENT USED IN THE COURSE OF THE LICENSEE'S WORK AS A MARINE CONTRACTOR.

~~22-308.~~ 17-308.

(A) ~~BY REGULATION, THE~~ THE SECRETARY SHALL ADOPT REGULATIONS TO STAGGER THE TERMS OF THE LICENSES.

(B) ~~THE~~ A LICENSE EXPIRES ON THE DATE THE SECRETARY SETS, IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.

(C) AT LEAST ~~1 MONTH~~ 2 MONTHS BEFORE A LICENSE EXPIRES, THE ~~SECRETARY BOARD~~ SHALL ~~MAIL~~ SEND TO THE LICENSEE ~~AT~~, BY FIRST-CLASS MAIL OR ELECTRONICALLY, TO THE LAST KNOWN ADDRESS OF THE LICENSEE:

(1) ~~A~~ A RENEWAL APPLICATION FORM; AND

(2) ~~A~~ A NOTICE THAT STATES:

(I) ~~THE~~ THE DATE ON WHICH THE CURRENT LICENSE EXPIRES;

(II) ~~THAT THE SECRETARY~~ THE DATE BY WHICH THE BOARD MUST RECEIVE THE RENEWAL APPLICATION AT LEAST 15 DAYS BEFORE THE LICENSE EXPIRATION DATE FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE LICENSE EXPIRES; AND

(III) ~~THE~~ THE AMOUNT OF THE RENEWAL FEE.

(D) ~~A~~ BEFORE A LICENSE EXPIRES, THE LICENSEE MAY RENEW THE LICENSE FOR AN ADDITIONAL 2-YEAR TERM IF THE LICENSEE:

(1) ~~IS~~ IS OTHERWISE ENTITLED TO BE LICENSED;

(2) ~~(I)~~ PAYS TO THE SECRETARY A PAYS TO THE BOARD:

(I) THE REQUIRED RENEWAL FEE OF \$300 SET BY THE BOARD; AND

(II) ~~PAYS TO THE SECRETARY ANY~~ ANY OUTSTANDING FEES; AND

(3) ~~SUBMITS~~ SUBMITS TO THE SECRETARY ~~PROOF THAT THE LICENSEE HAS COMPLETED A MINIMUM OF 16 HOURS OF CONTINUING EDUCATION PROVIDED BY A SOURCE APPROVED BY THE SECRETARY; AND~~ BOARD:

(I) SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE CONTINUING EDUCATION REQUIREMENTS ESTABLISHED UNDER SUBSECTION (E) OF THIS SECTION;

(II) SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE INSURANCE REQUIREMENTS ESTABLISHED UNDER § 17-302 OF THIS SUBTITLE;

(III) SATISFACTORY EVIDENCE OF THE RESOLUTION OF ANY LICENSE VIOLATIONS, SUSPENSIONS, DENIALS, REVOCATIONS, OR OTHER BOARD ACTIONS TAKEN UNDER THIS TITLE; AND

~~(4)~~ (IV) ~~SUBMITS TO THE SECRETARY A~~ A RENEWAL APPLICATION ON THE FORM THAT THE ~~SECRETARY~~ BOARD PROVIDES.

(E) (1) A LICENSEE SHALL COMPLETE 12 HOURS OF CONTINUING EDUCATION INSTRUCTION COVERING MARINE CONTRACTOR SUBJECT MATTER APPROVED BY THE BOARD.

(2) (I) THE BOARD SHALL APPROVE THE SUBSTANCE AND FORM OF A CONTINUING EDUCATION COURSE IF THE COURSE IS:

1. OFFERED BY A QUALIFIED INSTRUCTOR; OR
2. CONDUCTED BY AN EDUCATIONAL INSTITUTION APPROVED BY THE BOARD.

(II) THE LICENSEE IS RESPONSIBLE FOR THE COST OF ANY CONTINUING EDUCATION COURSE.

~~(E)~~ (F) THE SECRETARY BOARD SHALL RENEW THE LICENSE OF EACH LICENSEE WHO MEETS THE REQUIREMENTS OF THIS SECTION.

~~22-309.~~ 17-309.

WITHIN 5 DAYS AFTER THE CHANGE, A LICENSEE ~~THAT IS A FIRM~~ SHALL SUBMIT TO THE ~~SECRETARY~~ BOARD WRITTEN NOTICE OF:

(1) ~~THE ADDITION OF A BRANCH OFFICE~~ IF THE LICENSEE IS AN INDIVIDUAL OR ENTITY, ANY CHANGE IN THE ADDRESS OR TELEPHONE NUMBER OF AN EXISTING OFFICE OR PRINCIPAL PLACE OF BUSINESS; AND

(2) ~~ANY CHANGE IN THE ADDRESS OR TELEPHONE NUMBER OF AN EXISTING OFFICE~~ IF THE LICENSEE IS AN ENTITY, THE ADDITION OF A BRANCH OFFICE.

~~22-310.~~ 17-310.

(A) EXCEPT AS OTHERWISE PROVIDED IN § 10-226 OF THE STATE GOVERNMENT ARTICLE, AND SUBJECT TO THE NOTICE AND HEARING REQUIREMENTS IN SUBSECTION ~~(B)~~ (C) OF THIS SECTION, THE ~~SECRETARY BOARD~~ BOARD MAY DENY, REFUSE TO RENEW, SUSPEND, OR REVOKE A LICENSE IF THE APPLICANT OR LICENSEE ~~VIOLATES~~:

(1) VIOLATES ANY PROVISION OF THIS TITLE OR ANY REGULATION ADOPTED UNDER THIS TITLE;

(2) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A LICENSE FOR THE LICENSEE OR FOR ANOTHER PERSON;

**(3) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;**

**(4) COMMITS ANY GROSS NEGLIGENCE, INCOMPETENCE, OR MISCONDUCT WHILE PRACTICING MARINE CONTRACTOR SERVICES;**

**(5) FAILS TO COMPLY WITH THE TERMS OF A TIDAL WETLANDS AUTHORIZATION ISSUED UNDER § 16-202 OR § 16-307 OF THIS ARTICLE;**

**(6) VIOLATES ANY PROVISION OF, OR REGULATIONS ADOPTED UNDER, § 16-202 OR § 16-307 OF THIS ARTICLE; OR**

**(7) IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA, AS DEFINED UNDER § 8-1802 OF THE NATURAL RESOURCES ARTICLE, FAILS TO COMPLY WITH:**

**(I) THE TERMS OF A STATE OR LOCAL PERMIT, LICENSE, OR APPROVAL; OR**

**(II) ANY STATE OR LOCAL LAW, AN APPROVED PLAN, OR OTHER LEGAL REQUIREMENT.**

**(B) THE CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS, ESTABLISHED UNDER TITLE 8, SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE, SHALL NOTIFY THE BOARD OF ANY LICENSED MARINE CONTRACTOR OR APPLICANT FOR A LICENSE THAT FAILS TO COMPLY WITH ANY REQUIREMENT UNDER SUBSECTION (A)(7) OF THIS SECTION.**

**(C) (1) BEFORE THE ~~SECRETARY~~ BOARD TAKES ANY FINAL ACTION UNDER SUBSECTION (A) OF THIS SECTION, THE ~~SECRETARY~~ BOARD SHALL GIVE THE APPLICANT OR LICENSEE AGAINST WHOM THE ACTION IS CONTEMPLATED NOTICE AND ~~HOLD A HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE~~ THE OPPORTUNITY FOR A HEARING BEFORE THE BOARD.**

**(2) THE BOARD SHALL PROVIDE NOTICE AND HOLD A HEARING IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.**

**(3) AT LEAST 30 DAYS BEFORE THE HEARING, THE HEARING NOTICE SHALL BE:**

**(I) SERVED PERSONALLY ON THE INDIVIDUAL; OR**

(II) SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, BEARING A POSTMARK FROM THE UNITED STATES POSTAL SERVICE, TO THE LAST KNOWN ADDRESS OF THE INDIVIDUAL OR ENTITY.

~~(2)~~ (4) IF, AFTER DUE NOTICE, THE APPLICANT OR LICENSEE AGAINST WHOM THE ACTION IS CONTEMPLATED FAILS OR REFUSES TO APPEAR, THE ~~SECRETARY~~ BOARD MAY HEAR AND DETERMINE THE MATTER.

(D) EXCEPT AS PROVIDED UNDER SUBSECTION (C) OF THIS SECTION, ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD MAY TAKE AN APPEAL AS AUTHORIZED UNDER §§ 10-222 AND 10-223 OF THE STATE GOVERNMENT ARTICLE.

~~(c)~~ (E) FOR PURPOSES OF THIS SECTION, AN ACT OR OMISSION OF ANY PRINCIPAL, AGENT, OR EMPLOYEE OF AN APPLICANT OR LICENSEE MAY BE CONSTRUED TO BE THE ACT OR OMISSION OF THE APPLICANT OR LICENSEE, AS WELL AS OF THE PRINCIPAL, AGENT, OR EMPLOYEE.

#### SUBTITLE 4. PROHIBITED ACTS; PENALTIES.

##### 17-401.

AN INDIVIDUAL OR ENTITY MAY NOT CONDUCT, ATTEMPT TO CONDUCT, OR OFFER TO CONDUCT MARINE CONTRACTOR SERVICES UNLESS THE INDIVIDUAL OR ENTITY IS LICENSED BY THE BOARD.

##### 17-402.

UNLESS AUTHORIZED TO PERFORM MARINE CONTRACTOR SERVICES UNDER THIS TITLE, AN INDIVIDUAL OR ENTITY MAY NOT REPRESENT TO THE PUBLIC BY TITLE, BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE INDIVIDUAL OR ENTITY IS AUTHORIZED TO PERFORM MARINE CONTRACTOR SERVICES IN THE STATE.

##### ~~22-401.~~ 17-403.

(A) (1) A PERSON WHO ~~KNOWINGLY~~ VIOLATES ANY PROVISION OF THIS TITLE OR ANY REGULATION ADOPTED UNDER THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING ~~\$1,000~~ \$10,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

(2) EACH DAY THAT A PERSON CONDUCTS MARINE CONTRACTOR SERVICES WITHOUT A LICENSE CONSTITUTES A SEPARATE OFFENSE.

(B) (1) IN ADDITION TO ANY OTHER SANCTION UNDER THIS SUBTITLE, A CIVIL ACTION MAY BE BROUGHT AGAINST A PERSON FOR A VIOLATION OF THIS TITLE, OR ANY REGULATION ADOPTED UNDER THIS TITLE.

(2) A PERSON MAY BE LIABLE FOR A CIVIL PENALTY UNDER THIS SUBSECTION NOT TO EXCEED \$10,000 FOR EACH VIOLATION.

(C) ANY PENALTIES COLLECTED UNDER THIS SECTION SHALL BE PAID INTO THE WETLANDS AND WATERWAYS PROGRAM FUND, ESTABLISHED UNDER § 5-203.1 OF THIS ARTICLE, TO BE USED FOR THE ADMINISTRATION OF THE BOARD.

~~Article Environment~~

~~1-607.~~

- ~~(b) (1) This subsection applies to permits which are:~~
- ~~(i) Identified in § 1-601(a) of this subtitle; or~~
  - ~~(ii) Issued under Title 5, Subtitle 9 of this article.~~
- ~~(2) The Department shall provide to the applicant:~~
- ~~(i) A notice of completed application; or~~
  - ~~(ii) If the Department determines that the application is incomplete, the reasons, in writing, that the application was determined to be incomplete.~~
- ~~(3) (i) For permits identified in § 1-601(a) of this subtitle, the notice of completed application shall include an estimated time for issuance of the tentative determination if requested by the applicant.~~
- ~~(ii) [For] EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, FOR permits issued under Title 5, Subtitle 9 of this article, the notice of completed application shall include an estimate of the date by which the Department will grant, deny, or condition the permit.~~
- ~~(III) FOR PERMITS ISSUED UNDER TITLE 5, SUBTITLE 9 OF THIS ARTICLE, THE DEPARTMENT SHALL GRANT, DENY, OR CONDITION THE PERMIT ON OR BEFORE 60 DAYS AFTER THE DEPARTMENT RECEIVES THE APPLICATION IF:~~

~~1. THE APPLICANT IS A LICENSED MARINE CONTRACTOR UNDER TITLE 22, SUBTITLE 3 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE; OR~~

~~2. THE APPLICANT DEMONSTRATES TO THE SATISFACTION OF THE DEPARTMENT THAT A LICENSED MARINE CONTRACTOR UNDER TITLE 22, SUBTITLE 3 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE WILL CONDUCT THE ACTIVITY FOR WHICH THE PERMIT IS SOUGHT.~~

~~(4) A permit applicant may apply to the Department for a refund of all or a portion of the application fee if:~~

~~(i) 1. For permits identified in § 1-601(a) of this subtitle, the Department fails to issue a tentative determination regarding the application within the estimated time provided in the notice of completed application; or~~

~~2. For permits issued under Title 5, Subtitle 9 of this article, the Department fails to grant, deny, or condition a permit within the time periods provided under § 5-906 of this article;~~

~~(ii) The applicant demonstrates that the delay was caused solely by the Department and was not the result of procedures or requirements outside the control of the Department, including:~~

~~1. Reviews by federal, local, or other State government agencies;~~

~~2. Procedures for public participation; or~~

~~3. The failure of the applicant to submit information to the Department in a timely manner; and~~

~~(iii) 1. For permits identified in § 1-601(a) of this subtitle, the applicant applies to the Department within 60 days after the estimated time for issuance of a tentative determination; or~~

~~2. For permits issued under Title 5, Subtitle 9 of this article, the applicant applies to the Department within 60 days after the date by which the Department was to have granted, denied, or conditioned a permit under the time periods provided under § 5-906 of this article.~~

~~(5) The Secretary, or the Secretary's designee, shall review the refund request and determine if a refund of any amount is appropriate.~~

~~(6) If the Secretary denies the refund request, the Department shall provide the applicant a written explanation of the denial and of the procedures and requirements outside the control of the Department on which the denial was based within 60 days.~~

~~5-101.~~

- ~~(a) In this title the following words have the meanings indicated.~~
- ~~(b) "Administration" means the Water Management Administration.~~
- ~~(c) "Appropriate county governing body" means the county commissioners of any nonchartered county or the county council of any chartered county in which a portion of the watershed is located.~~
- ~~(d) "County" includes Baltimore City unless otherwise indicated.~~
- ~~(e) "Department" means the Department of the Environment.~~
- ~~(f) "Director" means the Director of the Water Management Administration.~~
- ~~(g) "LICENSED MARINE CONTRACTOR" MEANS A PERSON WHO IS LICENSED TO PROVIDE MARINE CONTRACTOR SERVICES IN THE STATE UNDER TITLE 22, SUBTITLE 3 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.~~
- ~~(H) "Person" includes the federal government, the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.~~
- ~~[(h)] (I) (1) "Pollution" means every contamination or other alteration of the physical, chemical, or biological properties of any waters of the State.~~
- ~~(2) "Pollution" includes change in temperature, taste, color, turbidity, or odor of the waters of the State or the discharge or deposit of any organic matter, harmful organism, or liquid, gaseous, solid, radioactive, or other substance into any waters of the State as will render the waters of the State harmful, detrimental, or injurious to public health, safety, or welfare, domestic, commercial, industrial, agricultural, recreational, other legitimate beneficial uses, or livestock, wild animals, birds or fish or other aquatic life.~~
- ~~[(i)] (J) "Public water system" has the meaning stated in § 9-401 of this article.~~

~~[(j)] (K)~~ “Secretary” means the Secretary of the Environment.

~~[(k)] (L)~~ “Water management strategy area” means an area designated by the Department in which a specific water resource problem has been identified and for which the Department has adopted specific water use restrictions or criteria for permit approval in order to protect the water resource or existing water users.

~~[(l)] (M)~~ “Waters of the State” includes:

- ~~(1)~~ Both surface and underground waters within the boundaries of the State subject to its jurisdiction;
- ~~(2)~~ That portion of the Atlantic Ocean within the boundaries of the State;
- ~~(3)~~ The Chesapeake Bay and its tributaries;
- ~~(4)~~ All ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within the State, other than those designed and used to collect, convey, or dispose of sanitary sewage; and
- ~~(5)~~ The floodplain of free flowing waters determined by the Department on the basis of the 100 year flood frequency.

~~5-203.1.~~

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

~~(3)~~ “Minor project” means a project that:

- ~~(i)~~ Proposes to permanently impact less than 5,000 square feet of wetlands or waterways, including the 100 year floodplain; ~~[and]~~

~~(ii) HAS NOT BEEN DESIGNATED BY THE DEPARTMENT FOR EXCLUSION UNDER § 16-106 OF THIS ARTICLE; AND~~

~~[(i)] (iii)~~ Does not meet the definition of a major project.

~~(b)~~ ~~(1)~~ Except as provided under ~~[paragraph] PARAGRAPHS (2) AND (3)~~ of this subsection, all applications for wetlands and waterways authorizations issued by the Department under §§ ~~5-503, 5-906, 16-202, 16-302, and 16-307~~ of this article or wetlands licenses issued by the Board of Public Works under § ~~16-202~~ of this article shall be accompanied by an application fee as follows:

~~(i)~~ For an application for a minor project or general permit.....\$750;

~~(ii) For an application for a minor modification..... \$500;~~

~~(iii) For an application for a major project or major modification with a proposed permanent impact of:~~

~~1. Less than 1/4 acre.....\$1,500;~~

~~2. At least 1/4 acre, but less than 1/2 acre.....\$3,000;~~

~~3. At least 1/2 acre, but less than 3/4 acre.....\$4,500;~~

~~4. At least 3/4 acre, but less than 1 acre.....\$6,000; and~~

~~5. 1 acre or more.....the impact area in acres multiplied by \$7,500.~~

~~(2) The following are exempt from the application fees established under paragraph (1) of this subsection:~~

~~(i) Regulated activities conducted by the State, a municipal corporation, county, bicounty or multicounty agency under Article 28 or Article 29 of the Code, or a unit of the State, a municipal corporation, or a county;~~

~~(ii) Performance of agricultural best management practices contained in a soil conservation and water quality plan approved by the appropriate soil conservation district;~~

~~(iii) Performance of forestry best management practices contained in an erosion and sediment control plan:~~

~~1. Prepared by a registered forester; and~~

~~2. Approved by the appropriate soil conservation district;~~

~~[and]~~

~~(iv) Stream restoration, vegetative shoreline stabilization, wetland creation, or other project in which the primary effect is to enhance the State's wetland or water resources; AND~~

~~(v) PERFORMANCE OF A PROJECT THAT THE DEPARTMENT HAS DESIGNATED FOR EXEMPTION UNDER § 16-106 OF THIS ARTICLE.~~

~~(3) IF AN APPLICANT FOR A WETLANDS AND WATERWAYS AUTHORIZATION ISSUED BY THE DEPARTMENT UNDER §§ 5-906, 16-202, 16-302, AND 16-307 OF THIS ARTICLE OR WETLANDS LICENSE ISSUED BY THE BOARD OF PUBLIC WORKS UNDER § 16-202 OF THIS ARTICLE IS A LICENSED MARINE CONTRACTOR, THE DEPARTMENT SHALL CHARGE A SINGLE, FLAT APPLICATION FEE OF \$750, DUE ONLY IF AND AT THE TIME THE DEPARTMENT APPROVES THE APPLICATION.~~

~~(4) For purposes of this subsection, a mining activity undertaken on affected land as identified in a permit issued under Title 15 of this article shall be:~~

~~(i) Deemed to be a minor project; and~~

~~(ii) Subject to the appropriate application fee under paragraph (1)(i) and (ii) of this subsection.~~

~~[(4)](5) Except as provided in paragraph [(5)](6) of this subsection, the fees imposed under this subsection may not be modified prior to January 1, 2012.~~

~~[(5)](6) (i) The Department may adjust the fees established under paragraph (1) of this subsection to reflect changes in the consumer price index for all “urban consumers” for the expenditure category “All items not seasonally adjusted”, and for all regions.~~

~~(ii) The Annual Consumer Price Index for the period ending each December, as published by the Bureau of Labor Statistics of the U.S. Department of Labor, shall be used to adjust the fees established under paragraph (1) of this subsection.~~

~~(D) A LICENSED MARINE CONTRACTOR SHALL BE IMMUNE FROM CIVIL LIABILITY ARISING FROM A PROJECT TO STABILIZE NATURAL SHORELINE IF THE PROJECT WAS ISSUED A PERMIT UNDER § 5-906 OF THIS TITLE.~~

~~[(d)](E) On or before December 31 of each year, in accordance with § 2-1246 of the State Government Article, the Department shall prepare and submit an annual report to the House Environmental Matters Committee, the House Appropriations Committee, the Senate Education, Health, and Environmental Affairs Committee, and the Senate Budget and Taxation Committee on the Wetlands and Waterways Program Fund, including an accounting of financial receipts deposited into the Fund and expenditures from the Fund.~~

~~[(e)](F) The Department shall:~~

~~(1) Prioritize the use of the Wetlands and Waterways Program Fund to improve the level of service to the regulated community; and~~

~~(2) Identify and implement measures that will reduce delays and duplication in the administration of the wetlands and waterways permit process, including the processing of applications for wetlands and waterways permits in accordance with § 1-607 of this article.~~

~~16-101.~~

- ~~(a) In this title the following words have the meanings indicated.~~
- ~~(b) "Board" means the Board of Public Works.~~
- ~~(c) "County" includes Baltimore City unless otherwise indicated.~~
- ~~(d) "Department" means the Department of the Environment.~~
- ~~(e) "Dredging" means the removal or displacement by any means of soil, sand, gravel, shells, or other material, whether or not of intrinsic value, from any State or private wetlands.~~
- ~~(f) (1) "Filling" means:~~
- ~~(i) The displacement of navigable water by the depositing into State or private wetlands of soil, sand, gravel, shells, or other materials; or~~
- ~~(ii) The artificial alteration of navigable water levels by any physical structure, drainage ditch, or otherwise.~~
- ~~(2) "Filling" includes storm drain projects which flow directly into tidal waters of the State.~~
- ~~(3) "Filling" does not include:~~
- ~~(i) Drainage of agricultural land;~~
- ~~(ii) In-place replacement or repair of shore erosion control structures using substantially similar materials and construction design; or~~
- ~~(iii) Planting of wetlands vegetation when no grading or fill in State or private wetlands is necessary.~~
- ~~(g) "Landward boundary of wetlands" means the common boundary between wetlands, as defined in this section, and lands not included within the definitions of wetlands appearing in this section.~~
- ~~(h) "LICENSED MARINE CONTRACTOR" MEANS A PERSON LICENSED AS A MARINE CONTRACTOR UNDER TITLE 22, SUBTITLE 3 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.~~

~~(f) (1) “Pier” means any pier, wharf, dock, walkway, bulkhead, breakwater, piles, or other similar structure.~~

~~(2) “Pier” does not include any structure on pilings or stilts that was originally constructed beyond the landward boundaries of State or private wetlands.~~

~~[(i)] (j) “Person” means any natural person, partnership, joint stock company, unincorporated association or society, the federal government, the State, any unit of the State, a political subdivision, or other corporation of any type.~~

~~[(j)] (k) (1) “Private wetlands” means any land not considered “State wetland” bordering on or lying beneath tidal waters, which is subject to regular or periodic tidal action and supports aquatic growth.~~

~~(2) “Private wetlands” includes wetlands, transferred by the State by a valid grant, lease, patent, or grant confirmed by Article 5 of the Maryland Declaration of Rights, to the extent of the interest transferred.~~

~~[(k)] (l) (1) “Public notice” means the public notice and public informational hearing procedures established in § 5-204(b) through (e) of this article.~~

~~(2) “Public notice” does not mean notice as provided for in § 16-303 of this title.~~

~~[(l)] (m) “Regular or periodic tidal action” means the rise and fall of the sea produced by the attraction of the sun and moon uninfluenced by wind or any other circumstance.~~

~~[(m)] (n) “Secretary” means the Secretary of the Environment.~~

~~[(n)] (o) “State wetlands” means any land under the navigable waters of the State below the mean high tide, affected by the regular rise and fall of the tide. Wetlands of this category which have been transferred by the State by valid grant, lease, patent or grant confirmed by Article 5 of the Maryland Declaration of Rights shall be considered “private wetland” to the extent of the interest transferred.~~

~~16-106.~~

~~(A) FOR ALL PERMITS ISSUED UNDER THIS TITLE, IF A PERMIT APPLICANT IS A LICENSED MARINE CONTRACTOR, THE DEPARTMENT SHALL:~~

~~(1) PROVIDE A MECHANISM TO TRACK THE STATUS OF THE DEPARTMENT’S REVIEW OF THE PERMIT APPLICATION ON THE DEPARTMENT’S WEBSITE; AND~~

~~(2) ON OR BEFORE 30 DAYS AFTER RECEIVING THE APPLICATION, MAKE A FINAL DECISION ON THE PERMIT APPLICATION.~~

~~(B) (1) THE DEPARTMENT SHALL EXEMPT A LICENSED MARINE CONTRACTOR FROM THE PERMITTING REQUIREMENTS UNDER THIS TITLE FOR A PROJECT THAT THE DEPARTMENT DESIGNATES FOR EXEMPTION BASED ON THE NEGLIGIBLE IMPACT THE PROJECT WILL HAVE ON THE WETLANDS IN WHICH THE PROJECT IS LOCATED.~~

~~(2) TO CARRY OUT THE REQUIREMENT IN PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL ADOPT EVALUATION CRITERIA BY REGULATION AFTER CONSULTATION WITH THE MARYLAND MARINE CONTRACTORS ASSOCIATION THAT THE DEPARTMENT WILL USE TO DETERMINE WHETHER OR NOT A PARTICULAR PROJECT WILL HAVE A NEGLIGIBLE IMPACT ON THE WETLANDS IN WHICH THE PROJECT IS LOCATED.~~

~~16-107.~~

~~A LICENSED MARINE CONTRACTOR SHALL BE IMMUNE FROM CIVIL LIABILITY ARISING FROM A PROJECT TO STABILIZE NATURAL SHORELINE IF THE PROJECT WAS ISSUED A PERMIT BY THE DEPARTMENT UNDER THIS TITLE.~~

~~16-108.~~

~~(A) A PERSON THAT UNDERTAKES OR AUTHORIZES AN ACTIVITY THAT REQUIRES A PERMIT UNDER THIS TITLE SHALL:~~

~~(1) HIRE A LICENSED MARINE CONTRACTOR TO DO THE WORK;~~  
~~OR~~

~~(2) CONSULT WITH A LICENSED MARINE CONTRACTOR BEFORE DOING THE WORK.~~

~~(B) A PERSON THAT VIOLATES SUBSECTION (A) OF THIS SECTION SHALL BE SUBJECT TO AN ADMINISTRATIVE FINE NOT EXCEEDING:~~

- ~~(1) \$500 FOR A FIRST VIOLATION;~~
- ~~(2) \$1,000 FOR A SECOND VIOLATION; AND~~
- ~~(3) \$5,000 FOR A THIRD OR SUBSEQUENT VIOLATION, NOT EXCEEDING \$25,000 TOTAL.~~

~~(c) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ADMINISTER AND ENFORCE THE PROVISIONS OF THIS SECTION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) On or before December 31, 2010, all marine contractors performing marine contractor services in the State or soliciting to perform marine contractor services in the State shall:

(i) Register with the Department of the Environment; and

(ii) Pay a \$300 registration fee.

(2) The registration required under paragraph (1) of this subsection shall expire on December 31, 2011, unless extended by an action of the Board.

(b) After December 31, 2010, any marine contractor that fails to register with the Department may not perform or solicit to perform marine contractor services in the State and shall be subject to the penalties established in § 17-403 of the Environment Article, as enacted by Section 1 of this Act.

(c) For the initial three licensed marine contractor members required to be appointed to the Marine Contractors Licensing Board in accordance with § 17-202 of the Environment Article, as enacted by Section 1 of this Act, the Department shall select marine contractors from the list of the registrants compiled under subsection (a) of this section for recommendation to the Governor for appointment to the Board.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 287

(Senate Bill 387)

AN ACT concerning

### Garrett County – Noncertificated Public School Employees – Service Fees

FOR the purpose of authorizing the Garrett County Board of Education to negotiate with certain employee organizations a reasonable service fee to be charged to nonmember noncertificated employees for representing the employees in certain matters; prohibiting certain nonmember noncertificated employees from being charged a service fee under certain circumstances; and generally relating to

service fees for nonmembers of certain employee organizations in Garrett County.

BY repealing and reenacting, with amendments,

Article – Education

Section 6–504

Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

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

### Article – Education

6–504.

(a) A public school employee may refuse to join or participate in the activities of employee organizations.

(b) (1) In Montgomery County, Allegany County, Charles County, and Howard County, the county board, with respect to noncertificated employees, shall negotiate a structure of reasonable service fees to be charged nonmembers for representation in negotiations and grievance matters by employee organizations.

(2) In Charles County, the provisions of this subsection shall apply only to employees hired on or after July 1, 2005.

(c) In Prince George's County, the county board shall negotiate an organizational security provision, commonly known as "agency shop", with employee organizations.

(d) (1) In Anne Arundel County [and], Baltimore County, **AND GARRETT COUNTY**, the county board, with respect to noncertificated employees, may negotiate a structure of reasonable service fees to be charged nonmembers for representation in negotiations and grievance matters by employee organizations.

(2) In Anne Arundel County, if the county board negotiates a structure of fees as authorized under this subsection:

(i) Each party shall:

1. Confer in good faith, at all reasonable times; and
2. Reduce to writing the matters agreed on as a result of the negotiations; and

(ii) Neither party is required to agree to any proposal or to make any concession.

(3) (i) The provisions of this paragraph apply if an agency or representation fee is negotiated in Baltimore County.

(ii) 1. Subject to the provisions of subparagraph 2 of this subparagraph, the employee organization designated as the exclusive representative for the public school employees shall indemnify and hold harmless the Board of Education of Baltimore County against any and all claims, demands, suits, or any other forms of liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.

2. The board shall retain without charge to the board the services of counsel that are designated by the exclusive representative with regard to any claim, demand, suit, or any other liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.

(iii) The employee organization designated as the exclusive representative shall submit to the board an annual audit from an external auditor that reflects the operational expenses of the employee organization and explains how the representation fee is calculated based on the audit.

(iv) 1. The agency or representation fee shall be based only on the expenses incurred by the employee organization in its representation in negotiations, contract administration, including the handling of grievances, and other activities as required under § 6–509 of this subtitle; and

2. Any political activities of the employee organization designated as the exclusive representative may not be financed by the funds collected from the agency or representation fee.

**(4) IN GARRETT COUNTY, IF A NONCERTIFICATED EMPLOYEE WAS NOT A PUBLIC SCHOOL EMPLOYEE AT THE TIME THAT A SERVICE FEE UNDER PARAGRAPH (1) OF THIS SUBSECTION WAS INITIATED, THE NONCERTIFICATED EMPLOYEE MAY NOT BE CHARGED A SERVICE FEE.**

(e) In Baltimore City, the public school employer shall negotiate with the employee organization designated as the exclusive representative for the public school employees in a unit, a reasonable service or representation fee to be charged to nonmembers for representing them in negotiations in the same manner that any such fee was permitted under law and bargained for prior to January 1, 1997.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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**Chapter 288**

**(Senate Bill 390)**

AN ACT concerning

**Baltimore City – Marriage License Fee – Increase – The Carole Alexander Act**

FOR the purpose of ~~providing for the maximum amount of the additional fee for a marriage license that the Baltimore City Mayor and the Baltimore City Council are authorized to set by ordinance; requiring the clerk of the court to pay the proceeds from the additional fee to the House of Ruth; requiring the Mayor to prepare and make available a certain annual report on or before a certain date each year~~ requiring the Mayor and City Council of Baltimore City to set by resolution an additional marriage license fee of up to a certain amount; and generally relating to marriage license fees in Baltimore City.

BY repealing and reenacting, with amendments,

Article – Family Law

Section 2–404(d)

Annotated Code of Maryland

(2006 Replacement Volume and 2009 Supplement)

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

**Article – Family Law**

2–404.

(d) In Baltimore City:

(1) the Mayor and City Council ~~may~~ **SHALL** set by ~~ordinance~~ **RESOLUTION** an additional fee [as authorized in this section] **OF UP TO \$75** for each license;

(2) the clerk shall pay the proceeds from the additional fee to the ~~{Mayor and City Council}~~ **HOUSE OF RUTH** each month; and

(3) ~~{the proceeds shall be used to fund domestic violence programs that have 24-hour intake ability}~~ **THE MAYOR SHALL PREPARE AND MAKE**

~~AVAILABLE AN ANNUAL REPORT ON OR BEFORE DECEMBER 1 OF EACH YEAR ON THE DISPOSITION OF FEES COLLECTED UNDER THIS SUBSECTION DURING THE PREVIOUS FISCAL YEAR.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 289

(Senate Bill 399)

AN ACT concerning

### Real Property – Abatement of Nuisance – Prostitution

FOR the purpose of establishing that the use of real property for prostitution is a nuisance that may be the subject of a certain action for abatement; *providing that certain relief is not available in certain actions for abatement of nuisance that alleges the use of a property for prostitution*; defining a certain term; making a stylistic change; and generally relating to prostitution and abatement of nuisance actions.

BY repealing and reenacting, without amendments,  
Article – Criminal Law  
Section 11–301(c)  
Annotated Code of Maryland  
(2002 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
Article – Real Property  
Section 14–120  
Annotated Code of Maryland  
(2003 Replacement Volume and 2009 Supplement)

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

### Article – Criminal Law

11–301.

(c) “Prostitution” means the performance of a sexual act, sexual contact, or vaginal intercourse for hire.

**Article – Real Property**

14–120.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Commercial property” does not include residential rental property.
- (3) “Community association” means:
- (i) A nonprofit association, corporation, or other organization that is:
1. Comprised of residents of a community within which a nuisance is located;
  2. Operated exclusively for the promotion of social welfare and general neighborhood improvement and enhancement; and
  3. Exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue Code; or
- (ii) A nonprofit association, corporation, or other organization that is:
1. Comprised of residents of a contiguous community that is defined by specific geographic boundaries, within which a nuisance is located; and
  2. Operated for the promotion of the welfare, improvement and enhancement of that community.
- (4) “Controlled dangerous substance” means a substance listed in Schedule I or Schedule II under § 5–402 or § 5–403 of the Criminal Law Article.
- (5) “Nuisance” means a property that is used:
- (i) **1.** By persons who assemble for the specific purpose of illegally administering a controlled dangerous substance;
- [(ii)] 2.** For the illegal manufacture, or distribution of:
- [1.] A.** A controlled dangerous substance; or

[2.] B. Controlled paraphernalia, as defined in § 5–101 of the Criminal Law Article; or

[(iii)] 3. 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. A controlled dangerous substance; or

[2.] B. Controlled paraphernalia, as defined in § 5–101 of the Criminal Law Article; OR

**(II) FOR PROSTITUTION.**

(6) (i) “Operator” means a person that exercises control over property.

(ii) “Operator” includes a property manager or any other person that is authorized to evict a tenant.

(7) “Owner” includes an owner–occupant.

(8) “Owner–occupant” includes an owner of commercial property that conducts business in any part of the property.

(9) “Property” includes a mobile home.

(10) **“PROSTITUTION” HAS THE MEANING STATED IN § 11–301 OF THE CRIMINAL LAW ARTICLE.**

**(11)** (i) “Tenant” means the lessee or a person occupying property, whether or not a party to a lease.

(ii) “Tenant” includes a lessee or a person occupying a mobile home, whether or not a party to a lease.

(iii) “Tenant” does not include:

1. The owner of the property; or

2. A mobile home owner who leases or rents a site for residential use and resides in a mobile home park.

(b) An action under § 4–401 of the Courts Article to abate a nuisance may be brought by:

- (1) The State's Attorney of the county in which the nuisance is located;
- (2) The county attorney or solicitor of the county in which the nuisance is located;
- (3) A community association within whose boundaries the nuisance is located; or
- (4) A municipal corporation within whose boundaries the nuisance is located.

(c) An action under § 4-401 of the Courts Article to abate a nuisance may be brought against:

- (1) A tenant of the property where the nuisance is located;
- (2) An owner of the property where the nuisance is located; or
- (3) An operator of the property where the nuisance is located.

(d) (1) (i) Except as provided in subparagraph (ii) of this paragraph, an action may not be brought under this section concerning a commercial property until 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:

and

- (i) The date and time of day the nuisance was first discovered;
- (ii) The location on the property where the nuisance is allegedly occurring.

- (3) The notice shall be:

record; or

- (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) (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) A plaintiff is entitled to relief under this section whether or not an adequate remedy exists at law.

(g) (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) (1) (i) If a tenant fails to comply with an order under subsection (g) 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) **(I) THIS PARAGRAPH DOES NOT APPLY TO AN ACTION BROUGHT UNDER THIS SECTION ALLEGING THE USE OF A PROPERTY FOR PROSTITUTION.**

**(II)** If an owner, including an owner-occupant, fails to comply with an order under subsection (g) 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)~~ **1.** The property be sold, at the owner's expense, in accordance with the Maryland Rules governing judicial sales; or

~~(ii)~~ **2.** 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) (I) THIS PARAGRAPH APPLIES ONLY TO AN ACTION BROUGHT UNDER THIS SECTION ALLEGING THE USE OF A PROPERTY FOR PROSTITUTION.**

**(II) IF AN OWNER, INCLUDING AN OWNER-OCCUPANT, FAILS TO COMPLY WITH AN ORDER UNDER SUBSECTION (G) OF THIS SECTION, AFTER A HEARING, THE COURT MAY ISSUE A CONTEMPT ORDER.**

~~(3)~~ **(4)** If an owner-occupant fails to comply with an order under subsection (g) 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) Except as provided in [paragraph] SUBSECTION (g)(2) of this section, the court may order appropriate relief under subsection (g) of this section without proof that a defendant knew of the existence of the nuisance.

(j) 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) of this section.

(k) **(1) THIS SUBSECTION DOES NOT APPLY TO AN ACTION AGAINST AN OWNER, OTHER THAN AN OWNER-OCCUPANT, BROUGHT UNDER THIS SECTION ALLEGING THE USE OF A PROPERTY FOR PROSTITUTION.**

**(2)** 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) An action under this section shall be heard within 14 days after service of process on the parties.

(m) This section does not abrogate any equitable or legal right or remedy under existing law to abate a nuisance.

(n) (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) Provisions of this 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) All proceedings under this section are equitable in nature.

(q) (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, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 290**

**(Senate Bill 412)**

AN ACT concerning

### **Teacher Certification – Career Professionals**

FOR the purpose of requiring the State Department of Education to establish teacher certification for career professionals in certain fields; requiring the Department to adopt certain regulations; and generally relating to the establishment of teacher certification for career professionals in specialized fields by the State Department of Education.

BY adding to

Article – Education

Section 6–121

Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

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

#### **Article – Education**

**6–121.**

**(A) THE DEPARTMENT SHALL ESTABLISH TEACHER CERTIFICATION FOR CAREER PROFESSIONALS IN SPECIALIZED FIELDS.**

**(B) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 291

(Senate Bill 413)

AN ACT concerning

### Property Tax Credit – Replacement Home Purchased After Acquisition of Dwelling for Public Use

FOR the purpose of ~~requiring the State and the governing body of a county and municipal corporation to grant a tax credit against the State, county, and municipal corporation property taxes for certain property purchased by certain owners of certain property that is acquired for public use; providing for the computation of the credit; requiring certain owners of certain property to apply for the credit; requiring certain information to be provided in an application for the credit; prohibiting the granting of the credit unless a certain application has been submitted by a certain date; authorizing the State Department of Assessments and Taxation to provide the application on its website; requiring the Department to adopt certain regulations; defining certain terms; altering certain limitations on a certain authorized property tax credit against the county or municipal corporation property tax for certain property purchased by certain owners of certain property that is acquired for public use; providing for the application of this Act; and generally relating to a property tax credit for an increase in property tax due on the replacement home of certain homeowners.~~

~~BY adding to~~

~~Article – Tax – Property~~

~~Section 9–110~~

~~Annotated Code of Maryland~~

~~(2007 Replacement Volume and 2009 Supplement)~~

BY repealing and reenacting, with amendments,

Article – Tax – Property

Section 9–246

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

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

## Article - Tax - Property

~~9-110.~~

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

~~(2) "ACQUIRED DWELLING" MEANS A DWELLING:~~

~~(I) THAT WAS OWNED BY A QUALIFIED DISPLACED HOMEOWNER; AND~~

~~(II) THAT BY NEGOTIATION OR CONDEMNATION WAS ACQUIRED FROM THE QUALIFIED DISPLACED HOMEOWNER FOR PUBLIC USE BY THE STATE OR A POLITICAL SUBDIVISION OR AN INSTRUMENTALITY OF THE STATE, IN WHICH THE ACQUIRING AGENCY HAD THE POWER TO ACQUIRE THE DWELLING FOR PUBLIC USE BY CONDEMNATION.~~

~~(3) "ACQUISITION YEAR" MEANS THE TAXABLE YEAR IN WHICH AN ACQUIRED DWELLING WAS ACQUIRED FOR PUBLIC USE BY THE STATE OR A POLITICAL SUBDIVISION OR INSTRUMENTALITY OF THE STATE.~~

~~(4) "DWELLING" HAS THE MEANING STATED IN § 9-105 OF THIS SUBTITLE.~~

~~(5) "LEGAL INTEREST" HAS THE MEANING STATED IN § 9-105 OF THIS SUBTITLE.~~

~~(6) "QUALIFIED DISPLACED HOMEOWNER" MEANS A PROPERTY OWNER WHO HAS A LEGAL INTEREST IN A DWELLING THAT WAS ACQUIRED FOR PUBLIC USE BY THE STATE OR A POLITICAL SUBDIVISION OR AN INSTRUMENTALITY OF THE STATE.~~

~~(7) "REPLACEMENT DWELLING" MEANS A DWELLING THAT IS PURCHASED BY A QUALIFIED DISPLACED HOMEOWNER BY THE END OF THE TAXABLE YEAR FOLLOWING THE ACQUISITION YEAR.~~

~~(8) "TAXABLE ASSESSMENT" MEANS THE ASSESSMENT ON WHICH THE STATE, COUNTY, AND MUNICIPAL CORPORATION PROPERTY TAX RATE IS IMPOSED.~~

~~(B) SUBJECT TO THE LIMITATION PROVIDED IN SUBSECTION (C) OF THIS SECTION, IF A QUALIFIED DISPLACED HOMEOWNER PURCHASES A REPLACEMENT DWELLING THAT HAS A HIGHER TAXABLE ASSESSMENT THAN~~

~~THE ACQUIRED DWELLING HAD IN THE ACQUISITION YEAR, THE STATE AND THE GOVERNING BODY OF EACH COUNTY AND OF EACH MUNICIPAL CORPORATION SHALL GRANT A PROPERTY TAX CREDIT UNDER THIS SECTION AGAINST THE STATE, COUNTY, AND MUNICIPAL CORPORATION PROPERTY TAX IMPOSED ON REAL PROPERTY BY THE STATE, COUNTY, OR MUNICIPAL CORPORATION.~~

~~(C) THE AMOUNT OF THE CREDIT SHALL BE THE DIFFERENCE BETWEEN THE TAXABLE ASSESSMENT OF THE ACQUIRED DWELLING IN THE ACQUISITION YEAR AND THE TAXABLE ASSESSMENT OF THE REPLACEMENT DWELLING MULTIPLIED BY THE STATE, COUNTY, OR MUNICIPAL CORPORATION PROPERTY TAX RATE IMPOSED.~~

~~(D) (1) TO QUALIFY FOR THE CREDIT UNDER THIS SECTION, A QUALIFIED DISPLACED HOMEOWNER SHALL SUBMIT AN APPLICATION FOR THE CREDIT TO THE DEPARTMENT AS PROVIDED IN THIS SUBSECTION.~~

~~(2) THE APPLICATION SHALL:~~

~~(I) BE MADE ON THE FORM THAT THE DEPARTMENT PROVIDES;~~

~~(II) PROVIDE THE INFORMATION REQUIRED BY THE FORM; AND~~

~~(III) INCLUDE A STATEMENT BY THE QUALIFIED DISPLACED HOMEOWNER UNDER OATH THAT THE FACTS STATED IN THE APPLICATION ARE TRUE, CORRECT, AND COMPLETE.~~

~~(3) THE DEPARTMENT MAY NOT AUTHORIZE AND THE STATE, COUNTY, AND MUNICIPAL CORPORATION MAY NOT GRANT THE PROPERTY TAX CREDIT UNDER THIS SECTION FOR A REPLACEMENT DWELLING UNLESS AN APPLICATION IS FILED WITH THE DEPARTMENT WITHIN 180 DAYS FOLLOWING THE DATE THE REPLACEMENT DWELLING IS TRANSFERRED FOR CONSIDERATION TO A QUALIFIED DISPLACED HOMEOWNER.~~

~~(4) THE DEPARTMENT MAY PROVIDE THE REQUIRED APPLICATION ELECTRONICALLY ON THE DEPARTMENT'S WEBSITE.~~

~~(E) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.~~

9-246.

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

(2) “Acquired dwelling” means a dwelling:

(i) that was owned by a qualified displaced homeowner;

(ii) that by negotiation or condemnation was acquired from the qualified displaced homeowner for public use by the State or a political subdivision or instrumentality of the State, where the acquiring agency had the power to acquire the dwelling for public use by condemnation; and

(iii) for which the qualified displaced homeowner was eligible for a credit under § 9–105 of this title for the taxable year in which the dwelling was acquired for public use.

(3) “Acquisition year” means the taxable year in which an acquired dwelling was acquired for public use by the State or a political subdivision or instrumentality of the State.

(4) “Dwelling” has the meaning stated in § 9–105 of this title.

(5) “Qualified displaced homeowner” means a property owner who:

(i) qualified for a credit under § 9–105 of this title for an acquired dwelling for the acquisition year; and

(ii) did not receive compensation for increased property taxes resulting from the loss of the credit under § 9–105 of this title.

(6) “Replacement dwelling” means a dwelling that is purchased by a qualified displaced homeowner by the end of the taxable year following the acquisition year.

(7) “Taxable assessment” has the meaning stated in § 9–105 of this title.

(b) The Mayor and City Council of Baltimore City or the governing body of a county or of a municipal corporation may grant, by law, a tax credit as provided in this section against the county or municipal corporation property tax imposed on a replacement dwelling.

(c) (1) The property tax credit under this section[:

(i) may not be granted for more than 5 years, beginning with the first taxable year after the taxable year in which the replacement dwelling was purchased; and

(ii) may not exceed [the following percentages] 100% of the county or municipal corporation property tax attributable to the eligible homestead assessment of the acquired dwelling, as determined under paragraphs (2) and (3) of this subsection[:

1. 100% for the first taxable year;
2. 80% for the second taxable year;
3. 60% for the third taxable year;
4. 40% for the fourth taxable year; and
5. 20% for the fifth taxable year].

(2) The county or municipal corporation property tax attributable to the eligible homestead assessment of the acquired dwelling is the product of multiplying the applicable county or municipal corporation tax rate for the current year times the eligible homestead assessment of the acquired dwelling, as determined under paragraph (3) of this subsection.

(3) For purposes of paragraph (2) of this subsection, and subject to paragraph (4) of this subsection, the eligible homestead assessment of the acquired dwelling is the amount by which the acquisition year assessment of the acquired dwelling exceeds the product of multiplying the prior year's taxable assessment of the acquired dwelling times:

(i) for purposes of the county or municipal corporation property tax where the replacement dwelling and the acquired dwelling are located in the same county or the same municipal corporation, the homestead credit percentage applicable to the county property tax or municipal corporation property tax for the acquisition year; and

(ii) for purposes of the county or municipal corporation property tax where the replacement dwelling and the acquired dwelling are not located in the same county or the same municipal corporation, 110%.

(4) The eligible homestead assessment determined under paragraph (3) of this subsection shall be reduced, but not below zero, by the amount, if any, by which the acquisition year assessment of the acquired dwelling exceeds the assessment of the replacement dwelling for the first taxable year for which the credit under this section is allowed.

(d) The Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation may provide, by law, for:

- section:
- (1) the amount and duration of the property tax credit under this section;
  - (2) additional eligibility criteria for the tax credit under this section;
  - (3) regulations and procedures for the application and uniform processing of requests for the tax credit; and
  - (4) any other provision necessary to carry out this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010, and shall be applicable to all taxable years beginning after June 30, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 292

(Senate Bill 415)

AN ACT concerning

### State Government – Commemorative Month – Hispanic Heritage Month

FOR the purpose of requiring the Governor to proclaim a certain period each year as Hispanic Heritage Month; requiring the proclamation to urge certain organizations to observe the month with certain activities; and generally relating to Hispanic Heritage Month.

BY adding to

Article – State Government  
Section 13–503  
Annotated Code of Maryland  
(2009 Replacement Volume)

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

#### Article – State Government

**13–503.**

**(A) IN RECOGNITION OF THE CONTRIBUTIONS THAT ~~HISPANICS~~ HISPANIC AMERICANS HAVE MADE TO THE STATE, THE GOVERNOR SHALL**

PROCLAIM THE MONTH FROM SEPTEMBER 15 TO OCTOBER 15, BOTH INCLUSIVE, EACH YEAR AS HISPANIC HERITAGE MONTH.

(B) THE PROCLAMATION SHALL URGE EDUCATIONAL AND CULTURAL ORGANIZATIONS TO OBSERVE HISPANIC HERITAGE MONTH PROPERLY WITH APPROPRIATE PROGRAMS, CEREMONIES, AND ACTIVITIES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 293

### (House Bill 34)

AN ACT concerning

#### State Government – Commemorative Month – Hispanic Heritage Month

FOR the purpose of requiring the Governor to proclaim a certain period each year as Hispanic Heritage Month; requiring the proclamation to urge certain organizations to observe the month with certain activities; and generally relating to Hispanic Heritage Month.

BY adding to

Article – State Government  
Section 13–503  
Annotated Code of Maryland  
(2009 Replacement Volume)

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

#### Article – State Government

#### 13–503.

(A) IN RECOGNITION OF THE CONTRIBUTIONS THAT HISPANIC AMERICANS HAVE MADE TO THE STATE, THE GOVERNOR SHALL PROCLAIM THE MONTH FROM SEPTEMBER 15 TO OCTOBER 15, BOTH INCLUSIVE, EACH YEAR AS HISPANIC HERITAGE MONTH.

(B) THE PROCLAMATION SHALL URGE EDUCATIONAL AND CULTURAL ORGANIZATIONS TO OBSERVE HISPANIC HERITAGE MONTH PROPERLY WITH APPROPRIATE PROGRAMS, CEREMONIES, AND ACTIVITIES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 294

(Senate Bill 416)

AN ACT concerning

~~Maryland Condominium Act and Maryland Homeowners Association Act~~  
**Proposed Homeowners Association – Annual Budget – Notice, Information,  
 and Adoption**

FOR the purpose of requiring ~~notice of a certain vote to be included in a certain notice of a council of condominium unit owners meeting; requiring notice of a certain vote to be included in a certain notice of a homeowners association meeting; requiring the board of directors or other governing body of a homeowners association to prepare and submit to all members lot owners of the homeowners association a proposed annual budget a certain period of time before its adoption; authorizing the proposed annual budget to be submitted in a certain manner; requiring the budget to include certain items; requiring the budget to be adopted at an open meeting of the homeowners association or other body to which the homeowners association has delegated responsibilities for preparing and adopting a budget; requiring that certain expenditures arising after the adoption of the budget that would result in an increase in assessments greater than a certain percentage of the budgeted amount, be approved by a budget amendment at a special meeting of the homeowners association; requiring written notice of the special meeting to be given to the lot owners by a certain time period before the meeting; providing that the adoption of a budget does not impair certain authority of the homeowners association for certain expenditures for certain purposes; and generally relating to providing notice of the proposed budget of a council of condominium unit owners or of a homeowners association and providing certain budget information to the lot owners of~~ *the board of directors or other governing body of a homeowners association to prepare and submit an annual proposed budget to the lot owners by a certain time period before its adoption; authorizing the annual proposed budget and notice of the meeting at which the proposed budget will be considered to be sent to lot owners by electronic transmission, by posting on the homeowners association's home page, or by including the annual proposed budget or notice in the homeowners*

association's newsletter; requiring the budget to include certain items; requiring the budget to be adopted at an open meeting of the homeowners association or other body to whom the homeowners association has delegated responsibilities for preparing and adopting a budget; requiring that certain expenditures, under certain conditions, arising after the adoption of the budget that would result in an assessment greater than a certain percent of the budgeted amount, be adopted by a budget amendment at a special meeting of the homeowners association; requiring written notice of the special meeting to be given to the lot owners by a certain time period before the meeting; providing that the adoption of a budget does not impair certain authority of the homeowners association for certain expenditures for certain purposes; providing for the application of this Act; and generally relating to the preparation and adoption of an annual budget by a homeowners association.

BY ~~repealing and reenacting, with amendments,~~ adding to  
Article – Real Property  
Section ~~11-109(e) and 11B-111~~ 11B-112.2  
Annotated Code of Maryland  
(2003 Replacement Volume and 2009 Supplement)

~~BY repealing and reenacting, without amendments,  
Article – Real Property  
Section 11-100.2(a) through (e)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2009 Supplement)~~

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

### Article – Real Property

~~11-100.~~

~~(e) (1) A meeting of the council of unit owners or board of directors may not be held on less notice than required by this section.~~

~~(2) The council of unit owners shall maintain a current roster of names and addresses of each unit owner to which notice of meetings of the board of directors shall be sent at least annually.~~

~~(3) Each unit owner shall furnish the council of unit owners with his name and current mailing address. A unit owner may not vote at meetings of the council of unit owners until this information is furnished.~~

~~(4) A regular or special meeting of the council of unit owners may not be held on less than 10 nor more than 90 days'.~~

~~(i) Written notice delivered or mailed to each unit owner at the address shown on the roster on the date of the notice; or~~

~~(ii) Notice sent to each unit owner by electronic transmission, if the requirements of § 11-130.1 of this title are met.~~

~~(5) Notice of special meetings of the board of directors shall be given:~~

~~(i) As provided in the bylaws; or~~

~~(ii) If the requirements of § 11-130.1 of this title are met, by electronic transmission.~~

~~(6) Except as provided in § 11-109.1 of this title, a meeting of a governing body shall be open and held at a time and location as provided in the notice or bylaws.~~

~~(7) IF THE COUNCIL OF UNIT OWNERS OR OTHER BODY TO WHICH THE COUNCIL HAS DELEGATED RESPONSIBILITY FOR PREPARING AND ADOPTING THE BUDGET INTENDS TO VOTE ON THE ANNUAL PROPOSED BUDGET AT AN UPCOMING MEETING, NOTICE OF THE VOTE MUST BE INCLUDED IN THE NOTICE PROVIDED UNDER PARAGRAPH (4) OF THIS SUBSECTION.~~

~~[(7)] (8) (i) This paragraph does not apply to any meeting of the governing body that occurs at any time before the meeting at which the unit owners elect officers or a board of directors in accordance with paragraph [(16)] (17) of this subsection.~~

~~(ii) Subject to subparagraph (iii) of this paragraph and to reasonable rules adopted by the governing body under § 11-111 of this title, a governing body shall provide a designated period of time during a meeting to allow unit owners an opportunity to comment on any matter relating to the condominium.~~

~~(iii) During a meeting at which the agenda is limited to specific topics or at a special meeting, the unit owners' comments may be limited to the topics listed on the meeting agenda.~~

~~(iv) The governing body shall convene at least one meeting each year at which the agenda is open to any matter relating to the condominium.~~

~~[(8)] (9) (i) Unless the bylaws provide otherwise, a quorum is deemed present throughout any meeting of the council of unit owners if persons entitled to cast 25 percent of the total number of votes appurtenant to all units are present in person or by proxy.~~

~~(ii) If the number of persons present in person or by proxy at a properly called meeting of the council of unit owners is insufficient to constitute a quorum, another meeting of the council of unit owners may be called for the same purpose if:~~

~~1. The notice of the meeting stated that the procedure authorized by this paragraph might be invoked; and~~

~~2. By majority vote, the unit owners present in person or by proxy call for the additional meeting.~~

~~(iii) 1. Fifteen days' notice of the time, place, and purpose of the additional meeting shall be delivered, mailed, or sent by electronic transmission if the requirements of § 11-139.1 of this title are met, to each unit owner at the address shown on the roster maintained under paragraph (2) of this subsection.~~

~~2. The notice shall contain the quorum and voting provisions of subparagraph (iv) of this paragraph.~~

~~(iv) 1. At the additional meeting, the unit owners present in person or by proxy constitute a quorum.~~

~~2. Unless the bylaws provide otherwise, a majority of the unit owners present in person or by proxy:~~

~~A. May approve or authorize the proposed action at the additional meeting; and~~

~~B. May take any other action that could have been taken at the original meeting if a sufficient number of unit owners had been present.~~

~~(v) This paragraph may not be construed to affect the percentage of votes required to amend the declaration or bylaws or to take any other action required to be taken by a specified percentage of votes.~~

~~[(9)] (10) At meetings of the council of unit owners each unit owner shall be entitled to cast the number of votes appurtenant to his unit. Unit owners may vote by proxy, but the proxy is effective only for a maximum period of 180 days following its issuance, unless granted to a lessee or mortgagee.~~

~~[(10)] (11) Any proxy may be revoked at any time at the pleasure of the unit owner or unit owners executing the proxy.~~

~~[(11)] (12) A proxy who is not appointed to vote as directed by a unit owner may only be appointed for purposes of meeting quorums and to vote for matters of business before the council of unit owners, other than an election of officers and members of the board of directors.~~

~~[(12)](13) Only a unit owner voting in person or by electronic transmission if the requirements of § 11-130.2 of this title are met or a proxy voting for candidates designated by a unit owner may vote for officers and members of the board of directors.~~

~~[(13)](14) Unless otherwise provided in the bylaws, a unit owner may nominate himself or any other person to be an officer or member of the board of directors. A call for nominations shall be sent to all unit owners not less than 45 days before notice of an election is sent. Only nominations made at least 15 days before notice of an election shall be listed on the election ballot. Candidates shall be listed on the ballot in alphabetical order, with no indicated candidate preference. Nominations may be made from the floor at the meeting at which the election to the board is held.~~

~~[(14)](15) Election materials prepared with funds of the council of unit owners shall list candidates in alphabetical order and may not indicate a candidate preference.~~

~~[(15)](16) Unless otherwise provided in this title, and subject to provisions in the bylaws requiring a different majority, decisions of the council of unit owners shall be made on a majority of votes of the unit owners listed on the current roster present and voting.~~

~~[(16)](17) (i) A meeting of the council of unit owners to elect a board of directors for the council of unit owners, as provided in the condominium declaration or bylaws, shall be held within:~~

~~1. 60 days from the date that units representing 50 percent of the votes in the condominium have been conveyed by the developer to members of the public for residential purposes; or~~

~~2. If a lesser percentage is specified in the declaration or bylaws of the condominium, 60 days from the date the specified lesser percentage of units in the condominium are sold to members of the public for residential purposes.~~

~~(ii) 1. Before the date of the meeting held under subparagraph (i) of this paragraph, the developer shall deliver to each unit owner notice that the requirements of subparagraph (i) of this paragraph have been met.~~

~~2. The notice shall include the date, time, and place of the meeting to elect the board of directors for the council of unit owners.~~

~~(iii) The term of each member of the board of directors appointed by the developer shall end 10 days after the meeting as specified in subparagraph (i) of this paragraph is held, if a replacement board member is elected.~~

~~(iv) Within 30 days from the date of the meeting held under subparagraph (i) of this paragraph, the developer shall deliver to the officers or board of directors for the council of unit owners, as provided in the condominium declaration or bylaws, at the developer's expense:~~

- ~~1. The documents specified in § 11-132 of this title;~~
- ~~2. The condominium funds, including operating funds, replacement reserves, investment accounts, and working capital;~~
- ~~3. The tangible property of the condominium; and~~
- ~~4. A roster of current unit owners, including mailing addresses, telephone numbers, and unit numbers, if known.~~

~~(v) 1. This subparagraph does not apply to a contract entered into before October 1, 2009.~~

~~2. A. In this subparagraph, "contract" means an agreement with a company or individual to handle financial matters, maintenance, or services for the condominium.~~

~~B. "Contract" does not include an agreement relating to the provision of utility services or communication systems.~~

~~3. Until all members of the board of directors of the condominium are elected by the unit owners at a transitional meeting as specified in subparagraph (i) of this paragraph, a contract entered into by the officers or board of directors of the condominium may be terminated, at the discretion of the board of directors and without liability for the termination, not later than 30 days after notice.~~

~~(vi) If the developer fails to comply with the requirements of this paragraph, an aggrieved unit owner may submit the dispute to the Division of Consumer Protection of the Office of the Attorney General under § 11-130(e) of this title.~~

~~11-109.2.~~

~~(a) The council of unit owners shall cause to be prepared and submitted to the unit owners an annual proposed budget at least 30 days before its adoption.~~

~~(b) The annual budget shall provide for at least the following items:~~

~~(1) Income;~~

~~(2) Administration;~~

- ~~(3) Maintenance;~~
- ~~(4) Utilities;~~
- ~~(5) General expenses;~~
- ~~(6) Reserves; and~~
- ~~(7) Capital items.~~

~~(c) The budget shall be adopted at an open meeting of the council of unit owners or any other body to which the council of unit owners delegates responsibilities for preparing and adopting the budget.~~

~~(d) Any expenditure made other than those made because of conditions which, if not corrected, could reasonably result in a threat to the health or safety of the unit owners or a significant risk of damage to the condominium, that would result in an increase in an amount of assessments for the current fiscal year of the condominium in excess of 15 percent of the budgeted amount previously adopted, shall be approved by an amendment to the budget adopted at a special meeting, upon not less than 10 days written notice to the council of unit owners.~~

~~(e) The adoption of a budget shall not impair the authority of the council of unit owners to obligate the council of unit owners for expenditures for any purpose consistent with any provision of this title.~~

~~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) (5) 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 LOT OWNERS of the homeowners association or their agents;~~

~~(2) All members LOT OWNERS of the homeowners association shall be given reasonable notice of all regularly scheduled open meetings of the homeowners association;~~

~~(3) (1) IF THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION INTENDS TO VOTE ON THE ANNUAL PROPOSED BUDGET AT AN UPCOMING MEETING, NOTICE OF THE VOTE MUST BE INCLUDED IN THE NOTICE PROVIDED UNDER PARAGRAPH (2) OF THIS SECTION; AND~~

~~(H) 1. THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION SHALL CAUSE TO BE PREPARED AND SUBMITTED TO ALL MEMBERS LOT OWNERS OF THE HOMEOWNERS ASSOCIATION AN ANNUAL PROPOSED BUDGET AT LEAST 30 DAYS BEFORE ITS ADOPTION;~~

~~2. THE ANNUAL PROPOSED BUDGET MAY BE SUBMITTED BY ELECTRONIC TRANSMISSION IN ACCORDANCE WITH § 11B-113.1 OF THIS TITLE, BY POSTING ON THE HOMEOWNERS ASSOCIATION WEB PAGE, OR BY PUBLICATION IN THE HOMEOWNERS ASSOCIATION NEWSLETTER;~~

~~(H) THE ANNUAL BUDGET SHALL PROVIDE INFORMATION ON OR EXPENDITURES FOR AT LEAST THE FOLLOWING ITEMS:~~

- ~~1. INCOME;~~
- ~~2. ADMINISTRATION;~~
- ~~3. MAINTENANCE;~~
- ~~4. UTILITIES;~~
- ~~5. GENERAL EXPENSES;~~
- ~~6. RESERVES; AND~~
- ~~7. CAPITAL EXPENSES;~~

~~(IV) THE BUDGET SHALL BE ADOPTED AT AN OPEN MEETING OF THE HOMEOWNERS ASSOCIATION OR ANY OTHER BODY TO WHICH THE HOMEOWNERS ASSOCIATION DELEGATES RESPONSIBILITIES FOR PREPARING AND ADOPTING THE BUDGET;~~

~~(V) EXCEPT FOR AN EXPENDITURE MADE BY THE HOMEOWNERS ASSOCIATION BECAUSE OF A CONDITION THAT, IF NOT CORRECTED, COULD REASONABLY RESULT IN A THREAT TO THE HEALTH OR SAFETY OF THE LOT OWNERS OR A SIGNIFICANT RISK OF DAMAGE TO THE DEVELOPMENT, ANY EXPENDITURE THAT WOULD RESULT IN AN INCREASE IN AN AMOUNT OF ASSESSMENTS FOR THE CURRENT FISCAL YEAR OF THE HOMEOWNERS ASSOCIATION IN EXCESS OF 15% OF THE BUDGETED AMOUNT PREVIOUSLY ADOPTED SHALL BE APPROVED BY AN AMENDMENT TO THE BUDGET ADOPTED AT A SPECIAL MEETING FOR WHICH NOT LESS THAN 10 DAYS WRITTEN NOTICE SHALL BE PROVIDED TO THE LOT OWNERS; AND~~

~~(VI) THE ADOPTION OF A BUDGET DOES NOT IMPAIR THE AUTHORITY OF THE HOMEOWNERS ASSOCIATION TO OBLIGATE THE HOMEOWNERS ASSOCIATION FOR EXPENDITURES FOR ANY PURPOSE CONSISTENT WITH ANY PROVISION OF THIS TITLE;~~

~~[(3)](4) (i) This paragraph does not apply to any meeting of a governing body that occurs at any time before the lot owners, other than the developer, have a majority of votes in the homeowners association, as provided in the declaration;~~

~~(ii) Subject to subparagraph (iii) of this paragraph and to reasonable rules adopted by a governing body, a governing body shall provide a designated period of time during a meeting to allow lot owners an opportunity to comment on any matter relating to the homeowners association;~~

~~(iii) During a meeting at which the agenda is limited to specific topics or at a special meeting, the lot owners' comments may be limited to the topics listed on the meeting agenda; and~~

~~(iv) The governing body shall convene at least one meeting each year at which the agenda is open to any matter relating to the homeowners association;~~

~~[(4)](5) 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;~~

~~(vii) Compliance with a specific constitutional, statutory, or judicially imposed requirement protecting particular proceedings or matters from public disclosure; or~~

~~(viii) Discussion of individual owner assessment accounts; and~~

~~[(5)] (6) If a meeting is held in closed session under paragraph [(4)] (5) 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)] (5) 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.~~

### 11B-112.2.

(A) THIS SECTION APPLIES ONLY TO A HOMEOWNERS ASSOCIATION THAT HAS RESPONSIBILITY UNDER ITS DECLARATION FOR MAINTAINING AND REPAIRING COMMON AREAS.

(B) (1) THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A HOMEOWNERS ASSOCIATION SHALL CAUSE TO BE PREPARED AND SUBMITTED TO THE LOT OWNERS AN ANNUAL PROPOSED BUDGET AT LEAST 30 DAYS BEFORE ITS ADOPTION.

(2) THE ANNUAL PROPOSED BUDGET MAY BE SENT TO EACH LOT OWNER BY ELECTRONIC TRANSMISSION, BY POSTING ON THE HOMEOWNERS ASSOCIATION'S HOME PAGE, OR BY INCLUDING THE ANNUAL PROPOSED BUDGET IN THE HOMEOWNERS ASSOCIATION'S NEWSLETTER.

(C) THE ANNUAL BUDGET SHALL PROVIDE INFORMATION ON OR EXPENDITURES FOR AT LEAST THE FOLLOWING ITEMS:

- (1) INCOME;
- (2) ADMINISTRATION;
- (3) MAINTENANCE;
- (4) UTILITIES;

**(5) GENERAL EXPENSES;**

**(6) RESERVES; AND**

**(7) CAPITAL EXPENSES.**

**(D) (1) THE BUDGET SHALL BE ADOPTED AT AN OPEN MEETING OF THE HOMEOWNERS ASSOCIATION OR ANY OTHER BODY TO WHICH THE HOMEOWNERS ASSOCIATION DELEGATES RESPONSIBILITIES FOR PREPARING AND ADOPTING THE BUDGET.**

**(2) (I) NOTICE OF THE MEETING AT WHICH THE PROPOSED BUDGET WILL BE CONSIDERED SHALL BE SENT TO EACH LOT OWNER.**

**(II) NOTICE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY BE SENT BY ELECTRONIC TRANSMISSION, BY POSTING ON THE HOMEOWNERS ASSOCIATION'S HOME PAGE, OR BY INCLUDING THE NOTICE IN THE HOMEOWNERS ASSOCIATION'S NEWSLETTER.**

**(E) EXCEPT FOR AN EXPENDITURE MADE BY THE HOMEOWNERS ASSOCIATION BECAUSE OF A CONDITION THAT, IF NOT CORRECTED, COULD REASONABLY RESULT IN A THREAT TO THE HEALTH OR SAFETY OF THE LOT OWNERS OR A SIGNIFICANT RISK OF DAMAGE TO THE DEVELOPMENT, ANY EXPENDITURE THAT WOULD RESULT IN AN INCREASE IN AN AMOUNT OF ASSESSMENTS FOR THE CURRENT FISCAL YEAR OF THE HOMEOWNERS ASSOCIATION IN EXCESS OF 15% OF THE BUDGETED AMOUNT PREVIOUSLY ADOPTED SHALL BE APPROVED BY AN AMENDMENT TO THE BUDGET ADOPTED AT A SPECIAL MEETING FOR WHICH NOT LESS THAN 10 DAYS WRITTEN NOTICE SHALL BE PROVIDED TO THE LOT OWNERS.**

**(F) THE ADOPTION OF A BUDGET DOES NOT IMPAIR THE AUTHORITY OF THE HOMEOWNERS ASSOCIATION TO OBLIGATE THE HOMEOWNERS ASSOCIATION FOR EXPENDITURES FOR ANY PURPOSE CONSISTENT WITH ANY PROVISION OF THIS TITLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

AN ACT concerning

~~Real Property~~ – **Homeowners Association – Annual Budget – Notice, Information, and Adoption**

FOR the purpose of requiring the board of directors or other governing body of a homeowners association to prepare and submit an annual proposed budget to the lot owners by a certain time period before its adoption; authorizing the annual proposed budget and notice of the meeting at which the proposed budget will be considered to be sent to lot owners by electronic transmission, by posting on the homeowners association's home page, or by including the annual proposed budget or notice in the homeowners association's newsletter; requiring the budget to include certain items; requiring the budget to be adopted at an open meeting of the homeowners association or other body to whom the homeowners association has delegated responsibilities for preparing and adopting a budget; requiring that certain expenditures, under certain conditions, arising after the adoption of the budget that would result in an assessment greater than a certain percent of the budgeted amount, be adopted by a budget amendment at a special meeting of the homeowners association; requiring written notice of the special meeting to be given to the lot owners by a certain time period before the meeting; providing that the adoption of a budget does not impair certain authority of the homeowners association for certain expenditures for certain purposes; providing for the application of this Act; and generally relating to the preparation and adoption of an annual budget by a homeowners association.

BY adding to

Article – Real Property

Section 11B–112.2

Annotated Code of Maryland

(2003 Replacement Volume and 2009 Supplement)

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

**Article – Real Property**

**11B–112.2.**

**(A) THIS SECTION APPLIES ONLY TO A HOMEOWNERS ASSOCIATION THAT HAS RESPONSIBILITY UNDER ITS DECLARATION FOR MAINTAINING AND REPAIRING COMMON AREAS.**

**(B) (1) THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A HOMEOWNERS ASSOCIATION SHALL CAUSE TO BE PREPARED AND SUBMITTED**

TO THE LOT OWNERS AN ANNUAL PROPOSED BUDGET AT LEAST 30 DAYS BEFORE ITS ADOPTION.

(2) THE ANNUAL PROPOSED BUDGET MAY BE SENT TO EACH LOT OWNER BY ELECTRONIC TRANSMISSION, BY POSTING ON THE HOMEOWNERS ASSOCIATION'S HOME PAGE, OR BY INCLUDING THE ANNUAL PROPOSED BUDGET IN THE HOMEOWNERS ASSOCIATION'S NEWSLETTER.

~~(B)~~ (C) THE ANNUAL BUDGET SHALL PROVIDE INFORMATION ON OR EXPENDITURES FOR AT LEAST THE FOLLOWING ITEMS:

- (1) INCOME;
- (2) ADMINISTRATION;
- (3) MAINTENANCE;
- (4) UTILITIES;
- (5) GENERAL EXPENSES;
- (6) RESERVES; AND
- (7) CAPITAL EXPENSES.

~~(C)~~ (D) (1) THE BUDGET SHALL BE ADOPTED AT AN OPEN MEETING OF THE HOMEOWNERS ASSOCIATION OR ANY OTHER BODY TO WHICH THE HOMEOWNERS ASSOCIATION DELEGATES RESPONSIBILITIES FOR PREPARING AND ADOPTING THE BUDGET.

(2) (I) NOTICE OF THE MEETING AT WHICH THE PROPOSED BUDGET WILL BE CONSIDERED SHALL BE SENT TO EACH LOT OWNER.

(II) NOTICE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY BE SENT BY ELECTRONIC TRANSMISSION, BY POSTING ON THE HOMEOWNERS ASSOCIATION'S HOME PAGE, OR BY INCLUDING THE NOTICE IN THE HOMEOWNERS ASSOCIATION'S NEWSLETTER.

~~(D)~~ (E) EXCEPT FOR AN EXPENDITURE MADE BY THE HOMEOWNERS ASSOCIATION BECAUSE OF A CONDITION THAT, IF NOT CORRECTED, COULD REASONABLY RESULT IN A THREAT TO THE HEALTH OR SAFETY OF THE LOT OWNERS OR A SIGNIFICANT RISK OF DAMAGE TO THE DEVELOPMENT, ANY EXPENDITURE THAT WOULD RESULT IN AN INCREASE IN AN AMOUNT OF ASSESSMENTS FOR THE CURRENT FISCAL YEAR OF THE HOMEOWNERS

ASSOCIATION IN EXCESS OF 15% OF THE BUDGETED AMOUNT PREVIOUSLY ADOPTED SHALL BE APPROVED BY AN AMENDMENT TO THE BUDGET ADOPTED AT A SPECIAL MEETING FOR WHICH NOT LESS THAN 10 DAYS WRITTEN NOTICE SHALL BE PROVIDED TO THE LOT OWNERS.

~~(E)~~ (F) THE ADOPTION OF A BUDGET DOES NOT IMPAIR THE AUTHORITY OF THE HOMEOWNERS ASSOCIATION TO OBLIGATE THE HOMEOWNERS ASSOCIATION FOR EXPENDITURES FOR ANY PURPOSE CONSISTENT WITH ANY PROVISION OF THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 296

(Senate Bill 422)

AN ACT concerning

### **Dorchester County – Choptank River – Soft-Shell Clam Harvesting**

FOR the purpose of altering the time periods during which and the locations in which soft-shell clam harvesting using certain types of gear is prohibited under certain circumstances in the Dorchester County portion of the Choptank River; making technical corrections; and generally relating to soft-shell clam harvesting in the Dorchester County portion of the Choptank River.

BY repealing and reenacting, with amendments,  
Article – Natural Resources  
Section 4-1037 and 4-1038  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,  
Article – Natural Resources  
Section 4-1039  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

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

**Article – Natural Resources**

4–1037.

A person may not catch or attempt to catch soft-shell clams with a hydraulic clam dredge or any other gear except hand-held tools, such as shovels and hoes, in the following areas:

(1) Within 150 feet of a natural oyster bar or area leased under Subtitle 11A of this title and marked as required by that subtitle;

(2) Within 1,000 feet of any occupied duck blind where decoys are set out during waterfowl hunting season;

(3) Except for the William Preston Lane, Jr. Memorial Bridge and its parallel span, the Governor Thomas Johnson Memorial Bridge, and the area of the Choptank River Bridge that is within Talbot County, within 50 feet of any bulkhead, structure, wharf, pier, or piling that is erected in, over, or under the waters of the State under a permit granted by the State or federal governments;

(4) Within 300 feet of any private bathing beach running not more than 300 feet along the shore which is marked as required by rule and regulation or within 1,000 feet of any public bathing beach from May 1 to September 30. However, the owner or lessee of a single property may not claim protection for more than one private bathing beach contiguous to this property;

(5) (i) Within 50 feet of the mean high watermark of any shoreline in Queen Anne's, Talbot, or Somerset counties;

(ii) Within 300 feet in Dorchester County; or

(iii) Within 150 feet in Anne Arundel County, Calvert County, St. Mary's County, or Kent County downriver from Nichols Point at the eastern side of the mouth of Langford Creek and within 300 feet upriver from Nichols Point;

(6) The Dorchester County waters of the Choptank River and its tributaries [except as provided in §§ 4–1038(a) and 4–1039 of this subtitle], **EAST OF A LINE RUNNING FROM HORN POINT TO MARTIN POINT AND WEST OF A LINE RUNNING FROM SHARP'S ISLAND LIGHT TO HILL'S POINT**; Brannock Bay; **THE** Little Choptank River; Tar Bay; **THE** Honga River; all waters east of a line running from the most southerly point of Holland Island to Holland Island Bar Light; all waters east of a line running from Richland Point to Okahanikan Point; and any areas reserved by the Department for production of seed oysters; and

(7) In the Atlantic Coastal Bays, as defined in § 8–1802 of this article.

4–1038.

(a) Except as provided in § 4–1039 of this subtitle, a person may not catch soft-shell clams by hydraulic clam dredge in the following waters:

(1) Anne Arundel County. — (i) Within 500 feet of any sea nettle net;

(ii) Within 800 feet of any public bathing beach between Saunders and Dutchman’s Point, if the beach is marked as required by rule or regulation and the public uses the beach for bathing;

(iii) In Marley Creek; Stoney Creek; Bodkin Creek; Magothy River above a line drawn from Mountain Point to Persimmon Point; Little Magothy River; Whitehall Bay between the shore and a line drawn from Hackett’s Point to Possum Point; Mill Creek; Severn River between the shore and a line drawn from Greenbury Point to the east side of the entrance to Lake Ogleton; South River between the shore and a line drawn between Turkey Point and east side of Duvall Creek, and extending 1,500 feet in front of Sandy Point State Park and Fort Smallwood State Park; West River south and west of a line running from Cheston Point to Curtis Point; or

(iv) Anywhere in Anne Arundel County north of the Chesapeake Bay Bridge within 800 feet of the shoreline, or south of the Chesapeake Bay Bridge and north of Thomas Point within 300 feet of the shoreline from September 16 to April 15 and within 800 feet of the shoreline from April 16 to September 15; south of Thomas Point within 300 feet of the shoreline, except that between Turkey Point and Ramsey Lake clamming is prohibited within 800 feet of the shoreline. This subsection does not prohibit the catching of clams by hydraulic clam dredge in West River or Rhode River.

(2) [Dorchester County. — In the Dorchester County waters of the Choptank River and its tributaries, west of a line running from Horn Point to Martin Point and east of a line running from Sharp’s Island Light to Hill’s Point from 30 days before opening date of wild waterfowl hunting season until the closing date. For purposes of this item, the seaduck season is not part of the wild waterfowl season.

(3)] Queen Anne’s County. — In the waters of Eastern Bay and its tributaries; Shipping Creek; Cox’s Creek; Crab Alley Creek; Wye River south of a line from the southernmost tip of Ferry Point to the northernmost tip of Drum Point; Wye East River west of a line from the southernmost tip of Wye Island to northernmost tip of Bruff’s Island; Kent Narrows south of a line drawn from the northernmost tip of Ferry Point to the northernmost tip of Long Point.

[(4)] (3) Somerset County. — In the Wicomico River or Monie Bay east of a line from the easternmost entrance of Rock Creek to the southeast extremity of Mollie’s Point.

[(5)] (4) Talbot County. — (i) In the Tred Avon River and in Town Creek in front of Oxford, between the shoreline and the center of the channel, except during October and November;

(ii) Within 1,200 feet of the Federal Research Laboratory at Oxford.

(b) A person may not catch by hydraulic or mechanical clam dredge soft-shell clams from the waters of Charles or Wicomico counties, or the Atlantic Coastal Bays, as defined in § 8-1802 of this article.

4-1039.

(a) The Department may open or close any area in which the catching of soft-shell clams by hydraulic clam dredge is not prohibited under the provisions of this subtitle if:

(1) In its opinion other natural resources will not be significantly damaged;

(2) The area to be opened is clearly defined and plainly marked; and

(3) The area is patrolled by Natural Resources Police vessels during dredging operations.

(b) In any area where hydraulic clam dredging is prohibited under § 4-1038(a) of this subtitle the Department may open selected areas if the areas opened are patrolled by Natural Resources Police vessels during dredging operations.

(c) Before opening or closing any area the Department shall publish notice in at least one newspaper of general circulation in the State, and in at least one newspaper of general circulation in each county. Any closing or opening shall be effective no less than 24 hours from publication of notice.

(d) The provisions of this section do not apply to Charles and Wicomico counties, or the Atlantic Coastal Bays, as defined in § 8-1802 of this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

**Approved by the Governor, May 4, 2010.**

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**Chapter 297**

**(Senate Bill 449)**

AN ACT concerning

**Frederick County – Alcoholic Beverages – Sales Hours**

FOR the purpose of altering the hours of sale on the days of the week for certain holders of off-sale alcoholic beverages licenses in Frederick County; and generally relating to alcoholic beverages licenses in Frederick County.

BY repealing and reenacting, without amendments,

Article 2B – Alcoholic Beverages

Section 11–303(a)(1) and 11–511(a) and (e)(2)(i), (3)(i), and (4)(i)

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 11–301(a)(1) and (2), 11–302(a)(1) and (2), 11–303(a)(2)(iii), and 11–511(e)(2)(ii), (3)(ii), and (4)(ii)

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

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

**Article 2B – Alcoholic Beverages**

11–301.

(a) (1) **[The] EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE** hours during which the privileges conferred by a Class A beer license may be exercised are from 6 a.m. to midnight, on every day except Sunday.

(2) In Frederick County, **THE HOURS OF OPERATION ARE:**

**(I) ON MONDAY THROUGH SATURDAY, FROM 6 A.M. TO 2 A.M. THE FOLLOWING DAY; AND**

**(II) [on] ON Sunday [the hours of operation are from 1 p.m. to midnight], FROM 11 A.M. TO 2 A.M. THE FOLLOWING DAY.**

11–302.

(a) (1) **[The] EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE** hours during which the privileges conferred by a Class A beer and light wine license may be exercised are from 6 a.m. to midnight on every day except Sunday.

(2) In Frederick County, **THE HOURS OF OPERATION ARE:**

**(I) ON MONDAY THROUGH SATURDAY, FROM 6 A.M. TO 2 A.M. THE FOLLOWING DAY; AND**

**(II) [on] ON Sunday [the hours of operation are from 1 p.m. to midnight], FROM 11 A.M. TO 2 A.M. THE FOLLOWING DAY.**

11-303.

(a) (1) The hours during which the privileges conferred by a Class A beer, wine and liquor license may be exercised are from 6 a.m. to midnight, on every day except Sunday.

(2) The provisions of paragraph (1) of this subsection are superseded as follows:

(iii) In Frederick County holders of a Class A beer, wine and liquor (off-sale) license may sell beer, wine and liquor for off-premises consumption on:

**1. MONDAY THROUGH SATURDAY, FROM 6 A.M. TO 2 A.M. THE FOLLOWING DAY; AND**

**2. [Sundays from 1 p.m. to midnight] SUNDAY, FROM 11 A.M. TO 2 A.M. THE FOLLOWING DAY, if they hold a special Sunday opening permit;**

11-511.

(a) This section applies only in Frederick County.

(e) (2) (i) The Board of License Commissioners may grant a special Sunday opening permit to a Class A beer, wine and liquor (off-sale) licensee.

(ii) The special Sunday opening permit authorizes the holder to sell beer, wine and liquor for off-premises consumption on Sundays from [12 noon] **11 A.M. to [12 midnight] 2 A.M. THE FOLLOWING DAY.**

(3) (i) The Board of License Commissioners may grant a special Sunday opening permit to a Class A beer and wine (off-sale) licensee.

(ii) The special Sunday opening permit authorizes the holder to sell beer and wine for off-premises consumption on Sundays from [12 noon] **11 A.M. to [12 midnight] 2 A.M. THE FOLLOWING DAY.**

(4) (i) The Board of License Commissioners may grant a special Sunday opening permit to a Class A beer (off-sale) licensee.

(ii) The special Sunday opening permit authorizes the holder to sell beer for off-premises consumption on Sundays from [12 noon] **11 A.M.** to [12 midnight] **2 A.M. THE FOLLOWING DAY.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 298

**(Senate Bill 452)**

AN ACT concerning

### **Education – Innovative School Scheduling Models – Low-Performing and At-Risk Public Schools**

FOR the purpose of requiring the State Board of Education to explore the use of certain school scheduling models in certain schools; requiring the State Board to encourage certain county boards of education to use certain school scheduling models in certain schools; ~~requiring the State of Maryland to include the funding of certain scheduling models in certain schools as part of the State's application to the United States Department of Education for the Race to the Top Fund;~~ making this Act an emergency measure; and generally relating to the use of innovative school scheduling models in low-performing and at-risk public schools.

BY repealing and reenacting, without amendments,  
Article – Education  
Section 7-103(e)  
Annotated Code of Maryland  
(2008 Replacement Volume and 2009 Supplement)

BY adding to  
Article – Education  
Section 7-103.1  
Annotated Code of Maryland  
(2008 Replacement Volume and 2009 Supplement)

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

**Article – Education**

7–103.

(e) (1) The county boards of Allegany, Anne Arundel, Calvert, Howard, and Montgomery counties, and the Board of School Commissioners of Baltimore City, may elect to operate one or more schools within the county or Baltimore City on a year-round basis, provided that the 180-day and the minimum hour requirements under this section are met.

(2) Nothing in this section precludes a county board from conducting a year-round pilot study or program that is funded by the county board.

**7–103.1.**

**(A) THE STATE BOARD SHALL EXPLORE THE USE OF INNOVATIVE SCHOOL SCHEDULING MODELS, INCLUDING EXTENDED YEAR, YEAR-ROUND SCHOOLING, OR OTHER SCHOOL SCHEDULING MODELS THAT DO NOT ALLOW FOR PROLONGED LAPSES IN INSTRUCTIONAL TIME, IN LOW-PERFORMING OR AT-RISK PUBLIC SCHOOLS.**

**(B) THE STATE BOARD SHALL ENCOURAGE COUNTY BOARDS TO USE ~~THESE~~ THE SCHOOL SCHEDULING MODELS THAT ARE DETERMINED TO BE MOST EFFECTIVE IN ENHANCING STUDENT ACHIEVEMENT IN LOW-PERFORMING OR AT-RISK PUBLIC SCHOOLS.**

~~SECTION 2. AND BE IT FURTHER ENACTED, That the State of Maryland shall include the funding of grants, pilot programs, and other economic incentives and implementation costs of extended year, year round, and other innovative school scheduling models that do not allow for prolonged lapses in instructional time in low performing or at risk public schools as part of the State's application to the United States Department of Education for the Race to the Top Fund, authorized under the American Recovery and Reinvestment Act of 2009.~~

SECTION ~~2~~ 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, May 4, 2010.**

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**Chapter 299****(House Bill 439)**

AN ACT concerning

**Education – Innovative School Scheduling Models – Low-Performing and At-Risk Public Schools**

FOR the purpose of requiring the State Board of Education to explore the use of certain school scheduling models in certain schools; requiring the State Board to encourage certain county boards of education to use certain school scheduling models in certain schools; ~~requiring the State of Maryland to include the funding of certain scheduling models in certain schools as part of the State's application to the United States Department of Education for the Race to the Top Fund;~~ making this Act an emergency measure; and generally relating to the use of innovative school scheduling models in low-performing and at-risk public schools.

BY repealing and reenacting, without amendments,  
Article – Education  
Section 7-103(e)  
Annotated Code of Maryland  
(2008 Replacement Volume and 2009 Supplement)

BY adding to  
Article – Education  
Section 7-103.1  
Annotated Code of Maryland  
(2008 Replacement Volume and 2009 Supplement)

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

**Article – Education**

7-103.

(e) (1) The county boards of Allegany, Anne Arundel, Calvert, Howard, and Montgomery counties, and the Board of School Commissioners of Baltimore City, may elect to operate one or more schools within the county or Baltimore City on a year-round basis, provided that the 180-day and the minimum hour requirements under this section are met.

(2) Nothing in this section precludes a county board from conducting a year-round pilot study or program that is funded by the county board.

## 7-103.1.

(A) THE STATE BOARD SHALL EXPLORE THE USE OF INNOVATIVE SCHOOL SCHEDULING MODELS, INCLUDING EXTENDED YEAR, YEAR-ROUND SCHOOLING, OR OTHER SCHOOL SCHEDULING MODELS THAT DO NOT ALLOW FOR PROLONGED LAPSES IN INSTRUCTIONAL TIME, IN LOW-PERFORMING OR AT-RISK PUBLIC SCHOOLS.

(B) THE STATE BOARD SHALL ENCOURAGE COUNTY BOARDS TO USE THESE THE SCHOOL SCHEDULING MODELS THAT ARE DETERMINED TO BE MOST EFFECTIVE IN ENHANCING STUDENT ACHIEVEMENT IN LOW-PERFORMING OR AT-RISK PUBLIC SCHOOLS.

~~SECTION 2. AND BE IT FURTHER ENACTED, That the State of Maryland shall include the funding of grants, pilot programs, and other economic incentives and implementation costs of extended year, year round, and other innovative school scheduling models that do not allow for prolonged lapses in instructional time in low performing or at risk public schools as part of the State's application to the United States Department of Education for the Race to the Top Fund, authorized under the American Recovery and Reinvestment Act of 2009.~~

SECTION ~~2~~ 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 4, 2010.

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## Chapter 300

(Senate Bill 454)

AN ACT concerning

### State Licensing Agencies – Justification Statements Required for Fee Increases Proposed by Regulations

FOR the purpose of requiring units of State government, when adopting by regulation increases or decreases in fees for licenses to practice any business activity, business or health occupation, or business or health profession licensed or otherwise regulated under State law, to submit to the Joint Committee on

Administrative, Executive, and Legislative Review certain information explaining or justifying the reasons for the proposed increase or decrease; and generally relating to regulations proposed by units of State government that license and regulate various occupations, professions, and business activities.

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 10–110  
Annotated Code of Maryland  
(2009 Replacement Volume)

#### Preamble

WHEREAS, The units of the Executive Branch of State government that license and regulate by State law various health and business occupations and professions and business related activities periodically propose, through the regulatory process, increases in license and permit fees for those occupations, professions, and activities; and

WHEREAS, When seeking fee increases by regulation, the units are not consistent with respect to the justification provided on which they relied to propose the increase in the fees for the licenses or permits issued by them, and, in many instances, no justification is provided at all; and

WHEREAS, The General Assembly finds that there is a need to strengthen its ability to review, analyze, and otherwise engage in effective legislative oversight of proposed regulations by units of State government that seek to increase licensing fees for various occupations and professions and business activities and to foster greater transparency with respect to and accountability for those increases; and

WHEREAS, The work of the Joint Committee on Administrative, Executive, and Legislative Review (AELR), as the statutory committee of the General Assembly charged with the oversight of Executive Branch regulations, would be enhanced by its having meaningful and practical information submitted to it from units of State government, when they seek occupational and professional license fee increases, that sets forth their justification for the increases; now, therefore,

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

#### Article – State Government

10–110.

(a) [This] **EXCEPT FOR SUBSECTION (C) OF THIS SECTION, THIS** section does not apply to a regulation adopted under § 10–111(b) of this subtitle.

(b) At least 15 days before the date a proposed regulation is submitted to the Maryland Register for publication under § 10–112 of this subtitle, the promulgating unit shall submit to the State Children's Environmental Health and Protection Advisory Council established under § 13–1503 of the Health – General Article for review any proposed regulations identified by the promulgating unit as having an impact on environmental hazards affecting the health of children.

(c) (1) At least 15 days before the date a proposed regulation is submitted to the Maryland Register for publication under § 10–112 of this subtitle, the promulgating unit shall submit the proposed regulation to the Committee and the Department of Legislative Services.

(2) (I) IF THE PROPOSED REGULATION, EITHER IN WHOLE OR IN PART, SUBMITTED TO THE COMMITTEE AND THE DEPARTMENT OF LEGISLATIVE SERVICES IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION INCLUDES AN INCREASE OR DECREASE IN A FEE FOR A LICENSE TO PRACTICE ANY BUSINESS ACTIVITY, BUSINESS OR HEALTH OCCUPATION, OR BUSINESS OR HEALTH PROFESSION LICENSED OR OTHERWISE REGULATED UNDER STATE LAW, THE PROMULGATING UNIT SHALL INCLUDE CLEARLY WRITTEN EXPLANATORY REASONS THAT JUSTIFY THE INCREASE OR DECREASE IN THE FEE.

(II) IF A REGULATION SUBMITTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH PROPOSES AN INCREASE IN A FEE FOR A LICENSE, THE WRITTEN JUSTIFICATION ALSO SHALL INCLUDE INFORMATION ABOUT:

1. THE AMOUNT OF MONEY NEEDED BY THE PROMULGATING UNIT TO OPERATE EFFECTIVELY OR TO ELIMINATE AN IMBALANCE BETWEEN THE REVENUES AND EXPENDITURES OF THE UNIT;

2. THE MOST RECENT YEAR IN WHICH THE PROMULGATING UNIT HAD LAST INCREASED ITS FEES;

3. THE STRUCTURE OF THE PROMULGATING UNIT AS TO WHETHER IT IS ONE THAT RETAINS THE LICENSE FEES IT RECEIVES OR PASSES THEM THROUGH TO A NATIONAL ORGANIZATION OR ASSOCIATION THAT CREATES AND ADMINISTERS A UNIFORM LICENSING EXAMINATION THAT IS TAKEN BY ANYONE IN THE UNITED STATES WHO IS SEEKING A LICENSE TO PRACTICE A PARTICULAR OCCUPATION OR PROFESSION OR BUSINESS ACTIVITY ISSUED BY THE PROMULGATING UNIT;

4. MEASURES TAKEN BY THE PROMULGATING UNIT TO AVOID OR MITIGATE THE NECESSITY OF A FEE INCREASE AND THE RESULTS OF THOSE MEASURES;

**5. SPECIAL CIRCUMSTANCES ABOUT THE ACTIVITIES AND RESPONSIBILITIES OF THE PROMULGATING UNIT, INCLUDING INVESTIGATIONS OF INDIVIDUALS LICENSED BY THE UNIT, THAT HAVE HAD AN ADVERSE IMPACT ON THE UNIT'S OPERATING EXPENSES;**

**6. CONSIDERATION GIVEN BY THE PROMULGATING UNIT TO THE HARDSHIP A LICENSE FEE INCREASE MAY HAVE ON INDIVIDUALS AND TRAINEES LICENSED OR REGULATED BY THE UNIT; AND**

**7. ACTIONS TAKEN BY THE PROMULGATING UNIT TO ELICIT THE OPINIONS OF THE INDIVIDUALS WHO ARE LICENSED BY THE PROMULGATING UNIT AND THE MEMBERS OF THE PUBLIC AS TO THE EFFECTIVENESS AND PERFORMANCE OF THE PROMULGATING UNIT.**

(d) (1) The Committee is not required to take any action with respect to a proposed regulation submitted to it pursuant to subsection (c) of this section.

(2) Failure by the Committee to approve or disapprove the proposed regulation during the period of preliminary review provided by subsection (c) of this section may not be construed to mean that the Committee approves or disapproves the proposed regulation.

(3) During the preliminary review period, the Committee may take any action relating to the proposed regulation that the Committee is authorized to take under §§ 10–111.1 and 10–112 of this subtitle.

(e) Prior to the date specified in subsection (c) of this section, the promulgating unit is encouraged to submit the proposed regulation to the Committee and to consult with the Committee concerning the form and content of that regulation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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**Chapter 301**

**(House Bill 459)**

AN ACT concerning

**State Licensing Agencies – Justification Statements Required for Fee  
Increases Proposed by Regulations**

FOR the purpose of requiring units of State government, when adopting by regulation increases or decreases in fees for licenses to practice any business activity, business or health occupation, or business or health profession licensed or otherwise regulated under State law, to submit to the Joint Committee on Administrative, Executive, and Legislative Review certain information explaining or justifying the reasons for the proposed increase or decrease; and generally relating to regulations proposed by units of State government that license and regulate various occupations, professions, and business activities.

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 10–110  
Annotated Code of Maryland  
(2009 Replacement Volume)

#### Preamble

WHEREAS, The units of the Executive Branch of State government that license and regulate by State law various health and business occupations and professions and business related activities periodically propose, through the regulatory process, increases in license and permit fees for those occupations, professions, and activities; and

WHEREAS, When seeking fee increases by regulation, the units are not consistent with respect to the justification provided on which they relied to propose the increase in the fees for the licenses or permits issued by them, and, in many instances, no justification is provided at all; and

WHEREAS, The General Assembly finds that there is a need to strengthen its ability to review, analyze, and otherwise engage in effective legislative oversight of proposed regulations by units of State government that seek to increase licensing fees for various occupations and professions and business activities and to foster greater transparency with respect to and accountability for those increases; and

WHEREAS, The work of the Joint Committee on Administrative, Executive, and Legislative Review (AELR), as the statutory committee of the General Assembly charged with the oversight of Executive Branch regulations, would be enhanced by its having meaningful and practical information submitted to it from units of State government, when they seek occupational and professional license fee increases, that sets forth their justification for the increases; now, therefore,

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

#### Article – State Government

10–110.

(a) [This] **EXCEPT FOR SUBSECTION (C) OF THIS SECTION, THIS** section does not apply to a regulation adopted under § 10–111(b) of this subtitle.

(b) At least 15 days before the date a proposed regulation is submitted to the Maryland Register for publication under § 10–112 of this subtitle, the promulgating unit shall submit to the State Children’s Environmental Health and Protection Advisory Council established under § 13–1503 of the Health – General Article for review any proposed regulations identified by the promulgating unit as having an impact on environmental hazards affecting the health of children.

(c) **(1)** At least 15 days before the date a proposed regulation is submitted to the Maryland Register for publication under § 10–112 of this subtitle, the promulgating unit shall submit the proposed regulation to the Committee and the Department of Legislative Services.

**(2) (I) IF THE PROPOSED REGULATION, EITHER IN WHOLE OR IN PART, SUBMITTED TO THE COMMITTEE AND THE DEPARTMENT OF LEGISLATIVE SERVICES IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION INCLUDES AN INCREASE OR DECREASE IN A FEE FOR A LICENSE TO PRACTICE ANY BUSINESS ACTIVITY, BUSINESS OR HEALTH OCCUPATION, OR BUSINESS OR HEALTH PROFESSION LICENSED OR OTHERWISE REGULATED UNDER STATE LAW, THE PROMULGATING UNIT SHALL INCLUDE CLEARLY WRITTEN EXPLANATORY REASONS THAT JUSTIFY THE INCREASE OR DECREASE IN THE FEE.**

**(II) IF A REGULATION SUBMITTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH PROPOSES AN INCREASE IN A FEE FOR A LICENSE, THE WRITTEN JUSTIFICATION ALSO SHALL INCLUDE INFORMATION ABOUT:**

**1. THE AMOUNT OF MONEY NEEDED BY THE PROMULGATING UNIT TO OPERATE EFFECTIVELY OR TO ELIMINATE AN IMBALANCE BETWEEN THE REVENUES AND EXPENDITURES OF THE UNIT;**

**2. THE MOST RECENT YEAR IN WHICH THE PROMULGATING UNIT HAD LAST INCREASED ITS FEES;**

**3. THE STRUCTURE OF THE PROMULGATING UNIT AS TO WHETHER IT IS ONE THAT RETAINS THE LICENSE FEES IT RECEIVES OR PASSES THEM THROUGH TO A NATIONAL ORGANIZATION OR ASSOCIATION THAT CREATES AND ADMINISTERS A UNIFORM LICENSING EXAMINATION THAT IS TAKEN BY ANYONE IN THE UNITED STATES WHO IS SEEKING A LICENSE TO**

**PRACTICE A PARTICULAR OCCUPATION OR PROFESSION OR BUSINESS ACTIVITY ISSUED BY THE PROMULGATING UNIT;**

**4. MEASURES TAKEN BY THE PROMULGATING UNIT TO AVOID OR MITIGATE THE NECESSITY OF A FEE INCREASE AND THE RESULTS OF THOSE MEASURES;**

**5. SPECIAL CIRCUMSTANCES ABOUT THE ACTIVITIES AND RESPONSIBILITIES OF THE PROMULGATING UNIT, INCLUDING INVESTIGATIONS OF INDIVIDUALS LICENSED BY THE UNIT, THAT HAVE HAD AN ADVERSE IMPACT ON THE UNIT'S OPERATING EXPENSES;**

**6. CONSIDERATION GIVEN BY THE PROMULGATING UNIT TO THE HARDSHIP A LICENSE FEE INCREASE MAY HAVE ON INDIVIDUALS AND TRAINEES LICENSED OR REGULATED BY THE UNIT; AND**

**7. ACTIONS TAKEN BY THE PROMULGATING UNIT TO ELICIT THE OPINIONS OF THE INDIVIDUALS WHO ARE LICENSED BY THE PROMULGATING UNIT AND THE MEMBERS OF THE PUBLIC AS TO THE EFFECTIVENESS AND PERFORMANCE OF THE PROMULGATING UNIT.**

(d) (1) The Committee is not required to take any action with respect to a proposed regulation submitted to it pursuant to subsection (c) of this section.

(2) Failure by the Committee to approve or disapprove the proposed regulation during the period of preliminary review provided by subsection (c) of this section may not be construed to mean that the Committee approves or disapproves the proposed regulation.

(3) During the preliminary review period, the Committee may take any action relating to the proposed regulation that the Committee is authorized to take under §§ 10-111.1 and 10-112 of this subtitle.

(e) Prior to the date specified in subsection (c) of this section, the promulgating unit is encouraged to submit the proposed regulation to the Committee and to consult with the Committee concerning the form and content of that regulation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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**Chapter 302****(Senate Bill 456)**

AN ACT concerning

**Baltimore City – Park Heights Redevelopment Area – Alcoholic Beverages –  
Store Opening Hours**

FOR the purpose of altering the time at which establishments issued certain alcoholic beverages licenses in the Park Heights Redevelopment Area in Baltimore City may begin selling alcoholic beverages; making certain technical corrections; and generally relating to alcoholic beverages licensees in Baltimore City.

BY repealing and reenacting, without amendments,

Article 2B – Alcoholic Beverages

Section 8–203(a), (b), and (d)(1), 11–302(b)(1) and (d)(1), and 11–303(d)(1)

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 8–203(d)(3), 11–302(a), (b)(2), (d)(2), and (j), and 11–303(a), (b), and (d)(2)

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

BY adding to

Article 2B – Alcoholic Beverages

Section 11–302(j) and 11–303(g)

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

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

**Article 2B – Alcoholic Beverages**

8–203.

(a) The provisions of this section only apply in Baltimore City.

(b) In this section, “Board” means the Board of License Commissioners of Baltimore City.

(d) (1) There is a Class B–D–7 license.

(3) (I) [Licensees] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, LICENSEES** may sell all alcoholic beverages at retail at the place in the license described, for consumption on the premises and elsewhere, from 6 a.m. to 2 a.m. on the following day, 7 days per week.

**(II) IN THE PARK HEIGHTS REDEVELOPMENT AREA THAT IS SPECIFIED IN THE PARK HEIGHTS MASTER PLAN ADOPTED IN 2006, THE HOURS OF SALE BEGIN AT 9 A.M. EACH DAY.**

11-302.

(a) (1) The hours during which the privileges conferred by a Class A beer and light wine license may be exercised are from 6 a.m. to midnight on every day except Sunday.

**(2) IN THE PARK HEIGHTS REDEVELOPMENT AREA THAT IS SPECIFIED IN THE PARK HEIGHTS MASTER PLAN ADOPTED BY BALTIMORE CITY IN 2006, THE HOURS OF SALE BEGIN AT 9 A.M. EACH DAY.**

**[(2)] (3)** In Frederick County, on Sunday the hours are from 1 p.m. to midnight.

**[(3)] (4)** In Montgomery County the hours are as provided in § 11-516(d)(1).

**[(4)] (5)** In Prince George's County the hours are from 6 a.m. to 2 a.m. on the following day except on Sunday when sales are not permitted after 2 a.m.

(b) (1) The hours during which the privileges conferred by a Class B beer and light wine license may be exercised are from 6 a.m. to midnight.

(2) Except as otherwise provided in subsections (h) [and], (i), **AND (J)** of this section, in Baltimore City the hours are from 6 a.m. to 2 a.m. on the following day.

(d) (1) The hours during which the privileges conferred by a Class D beer and light wine license may be exercised are from 6 a.m. to midnight.

(2) Except as otherwise provided in subsections (h) [and], (i), **AND (J)** of this section, in Baltimore City the hours are from 6 a.m. to 1 a.m. on the following day.

**(J) IN THE PARK HEIGHTS REDEVELOPMENT AREA THAT IS SPECIFIED IN THE PARK HEIGHTS MASTER PLAN ADOPTED BY BALTIMORE CITY IN 2006, THE HOURS OF SALE BEGIN AT 9 A.M. EACH DAY.**

**[(j)] (K)** In Carroll County, the privileges conferred by a Class A beer and light wine license may be exercised from 11 a.m. to 6 p.m. on Sundays.

11–303.

(a) (1) The hours during which the privileges conferred by a Class A beer, wine and liquor license may be exercised are from 6 a.m. to midnight, on every day except Sunday.

(2) The provisions of paragraph (1) of this subsection are superseded as follows:

(i) In Annapolis, the hours may be fixed by the Mayor, Counselor, and Aldermen of the City of Annapolis;

**(II) IN THE PARK HEIGHTS REDEVELOPMENT AREA THAT IS SPECIFIED IN THE PARK HEIGHTS MASTER PLAN ADOPTED BY BALTIMORE CITY IN 2006, THE HOURS OF SALE BEGIN AT 9 A.M. EACH DAY;**

**[(ii)] (III)** In Carroll County, the privileges conferred by a Class A beer, wine and liquor license may be exercised from 11 a.m. to 6 p.m. on Sunday;

**[(iii)] (IV)** In Frederick County, holders of a Class A beer, wine and liquor (off-sale) license may sell beer, wine and liquor for off-premises consumption on Sundays from 1 p.m. to midnight if they hold a special Sunday opening permit;

**[(iv)] (V)** In Kent County, the provisions of § 11–515 of this article apply;

**[(v)] (VI)** In St. Mary's County, holders of a Class A–1 license may sell on Sunday; and

**[(vi)] (VII)** In Talbot County, the hours are from 8 a.m. to 12 midnight.

(b) (1) The hours during which the privileges conferred by a Class B beer, wine and liquor license may be exercised are from 6 a.m. to 2 a.m. on the following day.

(2) In Annapolis, the hours shall be as fixed by the Mayor, Counselor, and Aldermen of the City of Annapolis.

(3) In Montgomery County, except as provided in § 11–516 of this article, the hours are from 9 a.m. on any day to 1 a.m. on the following day.

(4) In the 47th alcoholic beverages district in Baltimore City, the hours for off-sales under a Class B beer, wine and liquor license for use in a restaurant are as provided for in § 6-201(d) of this article.

**(5) IN THE PARK HEIGHTS REDEVELOPMENT AREA THAT IS SPECIFIED IN THE PARK HEIGHTS MASTER PLAN ADOPTED BY BALTIMORE CITY IN 2006, THE HOURS OF SALE BEGIN AT 9 A.M. EACH DAY.**

(d) (1) The hours during which the privileges conferred by a Class D beer, wine and liquor license may be exercised are from 6 a.m. to midnight.

(2) Except as otherwise provided in subsections (e) [and], (f), AND (G) of this section, in Baltimore City the hours are from 6 a.m. to 1 a.m.

**(G) IN THE PARK HEIGHTS REDEVELOPMENT AREA THAT IS SPECIFIED IN THE PARK HEIGHTS MASTER PLAN ADOPTED BY BALTIMORE CITY IN 2006, THE HOURS OF SALE BEGIN AT 9 A.M. EACH DAY.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 303

**(House Bill 279)**

AN ACT concerning

**Baltimore City – Park Heights Redevelopment Area – Alcoholic Beverages –  
Store Opening Hours**

FOR the purpose of altering the time at which establishments issued certain alcoholic beverages licenses in the Park Heights Redevelopment Area in Baltimore City may begin selling alcoholic beverages; making certain technical corrections; and generally relating to alcoholic beverages licensees in Baltimore City.

BY repealing and reenacting, without amendments,

Article 2B – Alcoholic Beverages

Section 8-203(a), (b), and (d)(1), 11-302(b)(1) and (d)(1), and 11-303(d)(1)

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 8–203(d)(3), 11–302(a), (b)(2), (d)(2), and (j), and 11–303(a), (b), and (d)(2)

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

BY adding to

Article 2B – Alcoholic Beverages

Section 11–302(j) and 11–303(g)

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

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

### **Article 2B – Alcoholic Beverages**

8–203.

(a) The provisions of this section only apply in Baltimore City.

(b) In this section, “Board” means the Board of License Commissioners of Baltimore City.

(d) (1) There is a Class B–D–7 license.

(3) **(I) [Licensees] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, LICENSEES** may sell all alcoholic beverages at retail at the place in the license described, for consumption on the premises and elsewhere, from 6 a.m. to 2 a.m. on the following day, 7 days per week.

**(II) IN THE PARK HEIGHTS REDEVELOPMENT AREA THAT IS SPECIFIED IN THE PARK HEIGHTS MASTER PLAN ADOPTED IN 2006, THE HOURS OF SALE BEGIN AT 9 A.M. EACH DAY.**

11–302.

(a) (1) The hours during which the privileges conferred by a Class A beer and light wine license may be exercised are from 6 a.m. to midnight on every day except Sunday.

**(2) IN THE PARK HEIGHTS REDEVELOPMENT AREA THAT IS SPECIFIED IN THE PARK HEIGHTS MASTER PLAN ADOPTED BY BALTIMORE CITY IN 2006, THE HOURS OF SALE BEGIN AT 9 A.M. EACH DAY.**

[(2)] (3) In Frederick County, on Sunday the hours are from 1 p.m. to midnight.

[(3)] (4) In Montgomery County the hours are as provided in § 11-516(d)(1).

[(4)] (5) In Prince George's County the hours are from 6 a.m. to 2 a.m. on the following day except on Sunday when sales are not permitted after 2 a.m.

(b) (1) The hours during which the privileges conferred by a Class B beer and light wine license may be exercised are from 6 a.m. to midnight.

(2) Except as otherwise provided in subsections (h) [and], (i), AND (J) of this section, in Baltimore City the hours are from 6 a.m. to 2 a.m. on the following day.

(d) (1) The hours during which the privileges conferred by a Class D beer and light wine license may be exercised are from 6 a.m. to midnight.

(2) Except as otherwise provided in subsections (h) [and], (i), AND (J) of this section, in Baltimore City the hours are from 6 a.m. to 1 a.m. on the following day.

**(J) IN THE PARK HEIGHTS REDEVELOPMENT AREA THAT IS SPECIFIED IN THE PARK HEIGHTS MASTER PLAN ADOPTED BY BALTIMORE CITY IN 2006, THE HOURS OF SALE BEGIN AT 9 A.M. EACH DAY.**

[(j)] (k) In Carroll County, the privileges conferred by a Class A beer and light wine license may be exercised from 11 a.m. to 6 p.m. on Sundays.

11-303.

(a) (1) The hours during which the privileges conferred by a Class A beer, wine and liquor license may be exercised are from 6 a.m. to midnight, on every day except Sunday.

(2) The provisions of paragraph (1) of this subsection are superseded as follows:

(i) In Annapolis, the hours may be fixed by the Mayor, Counselor, and Aldermen of the City of Annapolis;

**(II) IN THE PARK HEIGHTS REDEVELOPMENT AREA THAT IS SPECIFIED IN THE PARK HEIGHTS MASTER PLAN ADOPTED BY BALTIMORE CITY IN 2006, THE HOURS OF SALE BEGIN AT 9 A.M. EACH DAY;**

[(ii)] (III) In Carroll County, the privileges conferred by a Class A beer, wine and liquor license may be exercised from 11 a.m. to 6 p.m. on Sunday;

[(iii)] (IV) In Frederick County, holders of a Class A beer, wine and liquor (off-sale) license may sell beer, wine and liquor for off-premises consumption on Sundays from 1 p.m. to midnight if they hold a special Sunday opening permit;

[(iv)] (V) In Kent County, the provisions of § 11-515 of this article apply;

[(v)] (VI) In St. Mary's County, holders of a Class A-1 license may sell on Sunday; and

[(vi)] (VII) In Talbot County, the hours are from 8 a.m. to 12 midnight.

(b) (1) The hours during which the privileges conferred by a Class B beer, wine and liquor license may be exercised are from 6 a.m. to 2 a.m. on the following day.

(2) In Annapolis, the hours shall be as fixed by the Mayor, Counselor, and Aldermen of the City of Annapolis.

(3) In Montgomery County, except as provided in § 11-516 of this article, the hours are from 9 a.m. on any day to 1 a.m. on the following day.

(4) In the 47th alcoholic beverages district in Baltimore City, the hours for off-sales under a Class B beer, wine and liquor license for use in a restaurant are as provided for in § 6-201(d) of this article.

**(5) IN THE PARK HEIGHTS REDEVELOPMENT AREA THAT IS SPECIFIED IN THE PARK HEIGHTS MASTER PLAN ADOPTED BY BALTIMORE CITY IN 2006, THE HOURS OF SALE BEGIN AT 9 A.M. EACH DAY.**

(d) (1) The hours during which the privileges conferred by a Class D beer, wine and liquor license may be exercised are from 6 a.m. to midnight.

(2) Except as otherwise provided in subsections (e) [and], (f), AND (G) of this section, in Baltimore City the hours are from 6 a.m. to 1 a.m.

**(G) IN THE PARK HEIGHTS REDEVELOPMENT AREA THAT IS SPECIFIED IN THE PARK HEIGHTS MASTER PLAN ADOPTED BY BALTIMORE CITY IN 2006, THE HOURS OF SALE BEGIN AT 9 A.M. EACH DAY.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 304

### (Senate Bill 466)

AN ACT concerning

#### **Vehicle Laws – Off-Highway Recreational Vehicles – Titling**

FOR the purpose of defining “off-highway recreational vehicle”; altering the definition of “vehicle” to include off-highway recreational vehicles; requiring the owner of an off-highway recreational vehicle not purchased before a certain date to apply for a certificate of title in certain circumstances; requiring an application for a certificate of title for an off-highway recreational vehicle to be made by a certain electronic transmission; altering certain requirements relating to the electronic transmission of vehicle data to authorize transmission by a service provider instead of a licensed dealer; providing that, for purposes of determining a certain excise tax, the fair market value of a used off-highway recreational vehicle is the greater of the total purchase price or a certain amount; imposing an excise tax for each original and each subsequent certificate of title issued for an off-highway recreational vehicle for which sales and use tax is not collected at the time of purchase; providing that an off-highway recreational vehicle is not required to be inspected when ownership is transferred; providing for the construction of this Act; making this Act an emergency measure; and generally relating to off-highway recreational vehicles and titling.

BY adding to

Article – Transportation  
Section 11-140.1 and 13-102(13)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Transportation  
Section 11-176, 13-102(11) and (12), 13-104(a), 13-108.1, 13-809, and 23-106  
Annotated Code of Maryland  
(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,

Article – Transportation  
Section 13-101.1 and 13-610

Annotated Code of Maryland  
(2009 Replacement Volume and 2009 Supplement)

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

**Article – Transportation**

11-140.1.

(A) “OFF-HIGHWAY RECREATIONAL VEHICLE” MEANS A VEHICLE THAT IS:

(1) A MOTOR-ASSISTED OR MOTOR-DRIVEN VEHICLE THAT:

(I) IS DESIGNED TO CARRY ONLY THE OPERATOR OF THE VEHICLE ON A SEAT OR SADDLE DESIGNED TO BE STRADDLED BY THE OPERATOR OR IS DESIGNED TO CARRY ONLY THE OPERATOR OF THE VEHICLE AND ONE PASSENGER; AND

(II) IS COMMONLY KNOWN AS AN ALL-TERRAIN VEHICLE;

(2) A MOTORCYCLE THAT IS DESIGNED FOR OFF-HIGHWAY OPERATION AND IS NOT ELIGIBLE FOR REGISTRATION AS A CLASS D (MOTORCYCLE) VEHICLE UNDER THIS ARTICLE, COMMONLY KNOWN AS A DIRT BIKE; OR

(3) A SNOWMOBILE.

(B) “OFF-HIGHWAY RECREATIONAL VEHICLE” DOES NOT INCLUDE:

(1) A FARM VEHICLE AS DEFINED IN § 13-911 OF THIS ARTICLE WHEN USED EXCLUSIVELY ON FARM PROPERTY BY A FARMER; OR

(2) ANY VEHICLE WHEN USED ON RESIDENTIAL PROPERTY FOR THE PURPOSE OF LANDSCAPING, GARDENING, OR LAWN CARE.

(C) THE ADMINISTRATION MAY ESTABLISH BY REGULATION OTHER REQUIREMENTS FOR OR LIMITATIONS ON THE DEFINITION OF “OFF-HIGHWAY RECREATIONAL VEHICLE”.

11-176.

(a) (1) "Vehicle" means, except as provided in subsection (b) of this section, any device in, on, or by which any individual or property is or might be transported or towed on a highway.

(2) "Vehicle" includes a low speed vehicle **AND AN OFF-HIGHWAY RECREATIONAL VEHICLE.**

(b) "Vehicle" does not include an electric personal assistive mobility device as defined in § 21-101(j) of this article.

13-101.1.

Except as provided in § 13-102 of this subtitle, the owner of each vehicle that is in this State and for which the Administration has not issued a certificate of title shall apply to the Administration for a certificate of title of the vehicle.

13-102.

A certificate of title is not required for:

(11) A self-propelled invalid:

(i) Wheelchair; or

(ii) Tricycle; [or]

(12) A trailer, other than a camping trailer, rated by the manufacturer as having a gross vehicle weight of 2,500 pounds or less; **OR**

**(13) AN OFF-HIGHWAY RECREATIONAL VEHICLE PURCHASED BEFORE OCTOBER 1, 2010.**

13-104.

(a) **(1)** The application for a certificate of title of a vehicle shall be made by the owner of the vehicle on the form that the Administration requires.

**(2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, AN APPLICATION FOR A CERTIFICATE OF TITLE OF AN OFF-HIGHWAY RECREATIONAL VEHICLE SHALL BE MADE BY ELECTRONIC TRANSMISSION UNDER § 13-610 OF THIS TITLE.**

13-108.1.

(a) Notwithstanding any other provision of this title, the Administration may develop and implement an electronic system for the issuance of certificates of title and the recording and releasing of security interests.

(b) The electronic system may provide for:

(1) Recording titling and registration data without the issuance of a certificate of title; and

(2) Recording and releasing liens without the issuance of a security interest filing.

(c) The electronic system may provide for the electronic transmission of vehicle data to and from [licensed dealers] **SERVICE PROVIDERS, AS DEFINED IN § 13-610 OF THIS TITLE.**

(d) The Administration shall adopt regulations to govern the electronic transmission of titling and registration information authorized under this section.

13-610.

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

(2) “Fleet” means 10 or more vehicles.

(3) “Qualified owner” means a person, partnership, firm, or corporation, or an individual agent of a person, partnership, firm, or corporation, authorized by the Administration to transmit electronically proper titling and registration information and fees to the Administration.

(4) “Service provider” means a dealer or title service agent licensed under Title 15 of this article or a qualified owner of a fleet.

(b) Subject to the approval of the Administration, a service provider may:

(1) Issue permanent registration plates to the transferee or renew the registration of a vehicle if the service provider has electronically transmitted the proper titling and registration information to the Administration, or an agent designated by the Administration; and

(2) Charge the transferee or the registered owner of the vehicle a fee for the actual cost to the service provider of the electronic transmission service described in item (1) of this subsection.

(c) The Administration shall adopt regulations to:

(1) Govern the electronic transmission of titling and registration information authorized under this section; and

(2) Determine the appropriate level of the fee that may be charged by service providers for the electronic transmission service.

13-809.

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

(2) "Fair market value" means:

(i) As to the sale of any new or used vehicle by a licensed dealer, the total purchase price, as certified by the dealer;

(ii) Except as provided in item (iv) of this paragraph, as to a used vehicle that is sold by any person other than a licensed dealer and that has a designated model year that is 7 years old or older, the greater of:

1. The total purchase price; or

2. \$640;

(iii) Except as provided in item (iv) of this paragraph, as to any other used vehicle that is sold by any person other than a licensed dealer:

1. The total purchase price, if the total purchase price is less than \$500 below the retail value of the vehicle as shown in a national publication of used car values adopted for use by the Department; or

2. If the total purchase price is \$500 or more below the retail value of the vehicle as shown in a national publication of used car values adopted for use by the Department:

A. The total purchase price, if verified to the satisfaction of the Administration by a notarized bill of sale submitted in accordance with subsection (d)(2) of this section; or

B. The valuation shown in the national publication of used car values, if the Administration finds that the documentation submitted under subsection (d)(2) of this section fails to verify the total purchase price;

(iv) As to a used trailer **OR OFF-HIGHWAY RECREATIONAL VEHICLE** that is sold by any person other than a licensed dealer, the greater of:

1. The total purchase price; or

2. \$320; and

(v) In any other case, the valuation shown in a national publication of used car values adopted for use by the Department.

(3) (i) Subject to subparagraph (ii) of this paragraph, “total purchase price” means the price of a vehicle agreed on by the buyer and the seller, including any dealer processing charge, less an allowance for trade-in but with no allowance for other nonmonetary consideration.

(ii) As to a person trading in a nonleased vehicle to enter into a lease for a period of more than 180 consecutive days, “total purchase price” means the retail value of the vehicle as certified by the dealer, including any dealer processing charge, less an allowance for the trade-in of the nonleased vehicle but with no allowance for other nonmonetary consideration.

(4) “Trailer” has the meaning stated in § 11–169 of this article.

(b) (1) Except as otherwise provided in this part, in addition to any other charge required by the Maryland Vehicle Law, an excise tax is imposed:

(i) For each original and each subsequent certificate of title issued in this State for a motor vehicle, A trailer, [or] A semitrailer, **OR AN OFF-HIGHWAY RECREATIONAL VEHICLE FOR WHICH SALES AND USE TAX IS NOT COLLECTED AT THE TIME OF PURCHASE**; and

(ii) Except as provided in paragraph (2) of this subsection, for each motor vehicle, trailer, or semitrailer that is in interstate operation and registered under § 13–109(c) or (d) of this title without a certificate of title.

(2) (i) An excise tax of \$50 is imposed for the registration of a trailer exempt from the titling requirement under § 13–102(12) of this title.

(ii) In a case where the fair market value as defined in subsection (a)(2)(iii)2A of this section applies, the excise tax imposed under this part may not be less than \$32.

(3) A political subdivision of the State may not impose a sales tax, a use tax, or excise tax on the issuance of a motor vehicle certificate of title.

(c) (1) Except as provided in subsection (b)(2) of this section, the tax imposed by this section is 6 percent of the fair market value of the vehicle.

(2) If the vehicle formerly was a vehicle exempt from the tax imposed by this section, the tax shall be reduced by any amount previously paid by the present owner as a sales and use tax on the vehicle under Title 11 of the Tax – General Article.

(3) (i) 1. In this subparagraph, “military” includes the Commissioned Corps of the Public Health Service, the National Oceanic and Atmospheric Administration, or the Coast and Geodetic Survey.

2. If the vehicle was formerly titled and registered in another state and the present owner has paid a sales or excise tax to that state at a rate less than that imposed by this State, then the tax imposed shall apply but at a rate measured by the difference only between the tax rate paid to the other state and the tax rate imposed by this section, if the present owner:

A. Has not been a Maryland resident for more than 60 days;

B. Is a member of the military on active duty and has not been a Maryland resident for more than 1 year; or

C. Is a Maryland resident who is a member of the military returning to Maryland from, or on, active duty and who applies for titling and registration in Maryland no more than 1 year after returning.

(ii) If the vehicle was formerly titled and registered in another state and the present owner requests to transfer the vehicle in accordance with § 13–810(c)(1) of this subtitle, the Administration shall change or correct the names contained in the certificate of title:

1. At the time the excise tax that is credited or imposed under this section is paid and a new title is issued; and

2. Without issuing multiple certificates of title or charging additional fees.

(iii) Except as provided in subsection (b)(2) of this section, the minimum tax imposed under this section shall be \$100.

(d) Each applicant for a certificate of title or for registration under § 13–109(c) of this title shall submit to the Administration:

(1) The information that the Administration considers necessary as to:

(i) The time of purchase of the vehicle; and

(ii) The purchase price and other information relating to the determination of the fair market value of the vehicle which may include, but is not limited to:

1. Canceled checks;

2. Money order receipts;
3. Loan documents; or
4. A written description of the vehicle's condition; and

(2) If the excise tax is based on the total purchase price of the vehicle as provided in subsection (a)(2)(iii)2A of this section, a notarized bill of sale that:

- (i) Is designed by, and obtained from, the Administration;
- (ii) Is signed by the buyer and the seller; and

(iii) Includes a statement explaining why the vehicle was sold at the price stated in the bill of sale.

(e) Any person who fails to pay the excise tax as required in this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000.

(f) The Administration shall adopt regulations to implement the provisions of this section.

23–106.

(a) This section does not apply to:

(1) Any transfer of a used vehicle to any licensed dealer or to any foreign dealer;

(2) Any transfer between:

- (i) Spouses;
- (ii) A parent and child; or

(iii) Co-owners of the vehicle to be transferred when a co-owner's name is being removed from the title;

(3) Any transfer of a used vehicle that is not to be both titled and registered in this State;

(4) Any transfer of a used vehicle among any agencies of the State;

(5) Any transfer of a used vehicle as described in § 13–503.2 of this article;

(6) Any transfer of a used vehicle into a written inter vivos trust in which the transferor is the primary beneficiary; [or]

(7) Any transfer of a used island vehicle, as defined in § 13–935 of this article, registered, or to be registered, as a Class K (farm area/island) vehicle; **OR**

**(8) ANY TRANSFER OF AN OFF-HIGHWAY RECREATIONAL VEHICLE.**

(b) (1) Except as provided in paragraph (4) of this subsection, if any licensed dealer that also is an inspection station transfers any used vehicle, it shall:

(i) Prepare and attach an inspection certificate to a window of the vehicle; or

(ii) Have an inspection certificate prepared and attached to a window of the vehicle by another inspection station.

(2) Except as provided in paragraphs (4) and (5) of this subsection, if any other person transfers a used vehicle, the person shall obtain an inspection certificate from an inspection station. The inspection certificate shall be issued without charge and attached to a window of the vehicle.

(3) If a used vehicle is transferred other than by voluntary transfer or is transferred by a political subdivision of the State after that subdivision obtains the vehicle by proceedings pursuant to Title 12 of the Criminal Procedure Article, the transferee shall obtain the inspection certificate from an authorized inspection station. The inspection certificate shall be issued without charge and attached to a window of the vehicle.

(4) In the case of a transfer of any used vehicle registered, or to be registered, as a Class E (truck) exceeding three-fourths ton manufacturer's rated capacity, Class F (tractor), Class G (freight trailer or semitrailer), or Class G (dump service semitrailer) vehicle, the transferor or the transferee of the vehicle may obtain the required inspection certificate.

(5) In the case of a transfer of any used vehicle registered or to be registered, that is sold for dismantling or rebuilding purposes, the transferor or the transferee of the vehicle may obtain the required inspection certificate.

(6) On applying for a certificate of title of the vehicle, the transferee shall remove the inspection certificate from the vehicle and present it to the Administration.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed to supersede the provisions of any law of any county or political subdivision

of the State not relating to the titling of off-highway recreational vehicles as defined in this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect October 1, 2010~~ is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, May 4, 2010.**

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## Chapter 305

(Senate Bill 467)

AN ACT concerning

**Task Force to ~~Incorporate~~ Explore the Incorporation of the Principles of Universal Design for Learning into the Policies, Practices, and Curriculum of the Education Systems in Maryland**

FOR the purpose of establishing the Task Force to ~~Incorporate~~ Explore the Incorporation of the Principles of Universal Design for Learning into ~~the Policies, Practices, and Curriculum of~~ the Education Systems in Maryland; providing for the membership, purposes, and staffing of the Task Force; prohibiting a member of the Task Force from receiving compensation but entitling members to certain reimbursement for certain expenses under certain regulations in the State budget; requiring the Task Force to study and make certain recommendations on ~~how to incorporate and apply~~ the feasibility of incorporating and applying the principles of Universal Design for Learning into ~~the policies, practices, and curriculum of~~ the education systems in Maryland; requiring the Task Force to submit a report to the State Board of Education and certain committees of the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the Task Force to ~~Incorporate~~ Explore the Incorporation of the Principles of Universal Design for Learning into ~~the Policies, Practices, and Curriculum of~~ the Education Systems in Maryland.

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

(a) There is a Task Force to ~~Incorporate~~ Explore the Incorporation of the Principles of Universal Design for Learning into ~~the Policies, Practices, and Curriculum of~~ the Education Systems in Maryland.

- (b) The Task Force consists of the following members:
- (1) one member of the Senate of Maryland, appointed by the President of the Senate;
  - (2) one member of the House of Delegates, appointed by the Speaker of the House;
  - (3) the State Superintendent of Schools, or the State Superintendent's designee;
  - (4) the Chancellor of the University System of Maryland, or the Chancellor's designee;
  - (5) the Director of the Governor's Office of the Deaf and Hard of Hearing, or the Director's designee;
  - ~~(4)~~ (6) one member of the State Board of Education, appointed by the President of the State Board;
  - ~~(5)~~ (7) three representatives of the State Department of Education from different divisions, each appointed by the Assistant State Superintendent of the represented division, of whom:
    - (i) one representative shall be from the Division of Special Education and Early Intervention Services;
    - (ii) one representative shall be from the Division of Instruction;and
    - (iii) one representative shall be from the Division of Assessments and Accountability;
  - ~~(6)~~ (8) one county superintendent, appointed by the Public School Superintendents Association of Maryland;
  - ~~(7)~~ (9) one county board of education member, appointed by the Maryland Association of Boards of Education;
  - ~~(8)~~ (10) ~~three~~ five public school teachers who teach in the State ~~in different grade spans~~, appointed by the Maryland State Education Association, of whom:
    - (i) ~~one teacher shall be a general educator~~ three teachers shall be general educators, one each from an elementary, a middle, and a high school;
    - (ii) one teacher shall be certified in special education; and

(iii) one teacher shall be certified in instruction to students with limited English proficiency;

~~(9)~~ (11) one member of the Institute for Higher Education Policy, appointed by the Chair of the Maryland Higher Education Commission; and

~~(10)~~ (12) ~~the following~~ five members appointed by the Governor, one of whom has expertise in Universal Design for Learning .

~~(i) one representative of the Maryland Down Syndrome Advocacy Coalition;~~

~~(ii) one representative of the Maryland Parent Teacher Association;~~

~~(iii) one representative of the Maryland Disability Law Center;~~

~~(iv) one representative from an organization representing school children who have limited English proficiency; and~~

~~(v) one representative who has expertise in Universal Design for Learning.~~

(c) The Governor shall designate the chair of the Task Force.

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

(e) A member of the Task Force:

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

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

(f) The Task Force shall:

~~(1) define “Universal Design for Learning” as a scientifically valid~~

(1) study the effectiveness of Universal Design for Learning as a framework for guiding curriculum design including goals, teaching methods, instructional materials, and assessments, to:

(i) provide flexibility in the ways:

1. information is presented;

2. students respond or demonstrate knowledge and skills; and

3. students are engaged; and

(ii) reduce barriers in instruction and provide appropriate accommodations, supports, and challenges while maintaining high achievement expectations for all students, including students with disabilities and students with limited English proficiency;

(2) study ~~how to~~ the feasibility of:

(i) ~~incorporate and apply~~ incorporating and applying the principles of Universal Design for Learning into ~~the policies, practices, and curriculum of~~ the elementary, secondary, and postsecondary and higher education systems in Maryland with respect to:

1. curriculum development;

2. the evaluation, selection, and design of textbooks and other instructional materials;

3. the purchase and use of technology for instructional purposes;

4. teacher preparation and staff development;

5. the development of classroom, district, and statewide assessments; and

6. State grants; and

(ii) ~~evaluate~~ evaluating the implementation of the incorporation and application of Universal Design for Learning principles and the effect on student outcomes;

(3) make recommendations ~~for the minimum standards to be used relating to the incorporation of the principles of Universal Design for Learning by county boards of education in the development of local school system policies and procedures incorporating the principles of Universal Design for Learning;~~ and

(4) draft and recommend proposed regulations incorporating the findings of the Task Force under item (2) of this subsection.

(g) On or before ~~June 30, 2011~~ December 31, 2010, the Task Force shall report its findings and recommendations to the State Board of Education and, in accordance with § 2-1246 of the State Government Article, the Senate Education,

Health, and Environmental Affairs Committee and the Budget and Taxation Committee and the House Committee on Ways and Means and the Health and Government Operations Committee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010. It shall remain effective for a period of 1 year and, at the end of June 30, 2011, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

**Approved by the Governor, May 4, 2010.**

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## Chapter 306

### (House Bill 59)

AN ACT concerning

**Task Force to ~~Incorporate~~ Explore the Incorporation of the Principles of Universal Design for Learning into the Policies, Practices, and Curriculum of the Education Systems in Maryland**

FOR the purpose of establishing the Task Force to ~~Incorporate~~ Explore the Incorporation of the Principles of Universal Design for Learning into the Policies, Practices, and Curriculum of the Education Systems in Maryland; providing for the membership, purposes, and staffing of the Task Force; prohibiting a member of the Task Force from receiving compensation but entitling members to certain reimbursement for certain expenses under certain regulations in the State budget; requiring the Task Force to study and make certain recommendations on ~~how to incorporate and apply~~ the feasibility of incorporating and applying the principles of Universal Design for Learning into ~~the policies, practices, and curriculum of~~ the education systems in Maryland; requiring the Task Force to submit a report to the State Board of Education and certain committees of the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the Task Force to ~~Incorporate~~ Explore the Incorporation of the Principles of Universal Design for Learning into the Policies, Practices, and Curriculum of the Education Systems in Maryland.

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

(a) There is a Task Force to ~~Incorporate~~ Explore the Incorporation of the Principles of Universal Design for Learning into the Policies, Practices, and Curriculum of the Education Systems in Maryland.

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

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

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

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

(4) the Chancellor of the University System of Maryland, or the Chancellor's designee;

(5) the Director of the Governor's Office of the Deaf and Hard of Hearing, or the Director's designee;

~~(4)~~ (6) one member of the State Board of Education, appointed by the President of the State Board;

~~(5)~~ (7) three representatives of the State Department of Education from different divisions, each appointed by the Assistant State Superintendent of the represented division, of whom:

(i) one representative shall be from the Division of Special Education and Early Intervention Services;

(ii) one representative shall be from the Division of Instruction;  
and

(iii) one representative shall be from the Division of Assessments and Accountability;

~~(6)~~ (8) one county superintendent, appointed by the Public School Superintendents Association of Maryland;

~~(7)~~ (9) one county board of education member, appointed by the Maryland Association of Boards of Education;

~~(8)~~ (10) ~~three~~ five public school teachers who teach in the State ~~in different grade spans~~, appointed by the Maryland State Education Association, of whom:

(i) ~~one teacher shall be a general educator~~ three teachers shall be general educators, one each from an elementary, a middle, and a high school;

(ii) one teacher shall be certified in special education; and

(iii) one teacher shall be certified in instruction to students with limited English proficiency;

~~(9)~~ (11) one member of the Institute for Higher Education Policy, appointed by the Chair of the Maryland Higher Education Commission; and

~~(10)~~ (12) ~~the following~~ five members appointed by the Governor, one of whom has expertise in Universal Design for Learning.

~~(i) one representative of the Maryland Down Syndrome Advocacy Coalition;~~

~~(ii) one representative of the Maryland Parent Teacher Association;~~

~~(iii) one representative of the Maryland Disability Law Center;~~

~~(iv) one representative from an organization representing school children who have limited English proficiency; and~~

~~(v) one representative who has expertise in Universal Design for Learning.~~

(c) The Governor shall designate the chair of the Task Force.

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

(e) A member of the Task Force:

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

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

(f) The Task Force shall:

~~(1) define “Universal Design for Learning” as a scientifically valid~~

(1) study the effectiveness of Universal Design for Learning as a framework for guiding curriculum design including goals, teaching methods, instructional materials, and assessments, to:

(i) provide flexibility in the ways:

1. information is presented;

2. students respond or demonstrate knowledge and skills; and

3. students are engaged; and

(ii) reduce barriers in instruction and provide appropriate accommodations, supports, and challenges while maintaining high achievement expectations for all students, including students with disabilities and students with limited English proficiency;

(2) study ~~how to~~ the feasibility of:

(i) ~~incorporate and apply~~ incorporating and applying the principles of Universal Design for Learning into ~~the policies, practices, and curriculum of~~ the elementary, secondary, and postsecondary and higher education systems in Maryland with respect to:

1. curriculum development;

2. the evaluation, selection, and design of textbooks and other instructional materials;

3. the purchase and use of technology for instructional purposes;

4. teacher preparation and staff development;

5. the development of classroom, district, and statewide assessments; and

6. State grants; and

(ii) ~~evaluate~~ evaluating the implementation of the incorporation and application of Universal Design for Learning principles and the effect on student outcomes;

(3) make recommendations ~~for the minimum standards to be used relating to the incorporation of the principles of Universal Design for Learning by county boards of education in the development of local school system policies and procedures incorporating the principles of Universal Design for Learning;~~ and

(4) draft and recommend proposed regulations incorporating the findings of the Task Force under item (2) of this subsection.

(g) On or before ~~June 30, 2011~~ December 31, 2010, the Task Force shall report its findings and recommendations to the State Board of Education and, in accordance with § 2-1246 of the State Government Article, the Senate Education,

Health, and Environmental Affairs Committee and the Budget and Taxation Committee and the House Committee on Ways and Means and the Health and Government Operations Committee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010. It shall remain effective for a period of 1 year and, at the end of June 30, 2011, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 4, 2010.

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## Chapter 307

(Senate Bill 475)

AN ACT concerning

### Operating a Vessel While Under the Influence of or Impaired by Alcohol or Drugs – ~~Compulsory~~ Testing

FOR the purpose of specifying that certain alcohol- or drug-related offenses apply to certain vessels; providing that a person who operates or attempts to operate a vessel on the waters of the State is deemed to have consented, subject to certain provisions of law, to take a certain test of the person's breath or blood to determine alcohol concentration or drug or controlled dangerous substance content if the person is detained under certain circumstances; providing establishing that a person may not be compelled to take a certain test, subject to a certain exception of the person's breath or blood, except under certain circumstances; requiring a detaining police officer to advise a person detained under certain circumstances that, if the person refuses to take a certain test, or takes the a test and the results indicate a certain alcohol concentration, on conviction of a certain violation with a certain result the court may prohibit the person from operating or attempting to operate a vessel on the waters of the State for a certain period of time; authorizing the court to prohibit a certain person from operating a vessel on the waters of the State for a certain period of time if the person refuses a certain test or takes a test with a certain result; requiring a person to submit to certain tests of the person's breath or blood to determine alcohol concentration or drug or controlled dangerous substance content if the person is involved in an accident while operating or attempting to operate a vessel that results in the death of, or life-threatening injury to, another person and the person is detained by a police officer who has reasonable grounds to believe that the person has been operating the vessel while under the influence of alcohol or impaired by alcohol, drugs, a combination of alcohol and drugs, or a controlled dangerous substance; establishing that certain provisions relating to the qualifications of a person administering a certain blood

*or breath test and the equipment used to administer the test apply under certain circumstances;* providing that medical personnel who perform certain tests are not liable for civil damages under certain circumstances; providing for the admissibility of evidence of certain tests or analyses under certain circumstances; making certain conforming and stylistic changes; and generally relating to operating a vessel while under the influence of or impaired by alcohol or drugs.

BY renumbering

Article – Natural Resources

Section 8–738.1

to be Section 8–738.2

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Courts and Judicial Proceedings

Section 10–309(a) and (d)

Annotated Code of Maryland

(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 8–738

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

BY adding to

Article – Natural Resources

Section 8–738.1

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 8–738.1 of Article – Natural Resources of the Annotated Code of Maryland be renumbered to be Section(s) 8–738.2.

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

**Article – Courts and Judicial Proceedings**

10–309.

(a) (1) (i) Except as provided in § 16–205.1(c) of the Transportation Article ~~OR § 8–738(b)(3)~~ **8–738.1 OF THE NATURAL RESOURCES ARTICLE**, a person may not be compelled to submit to a test or tests provided for in this subtitle.

(ii) Evidence of a test or analysis provided for in this subtitle is not admissible in a prosecution for a violation of § 16–113 or § 21–902 of the Transportation Article, § 8–738 of the Natural Resources Article, or Title 2, Subtitle 5, § 2–209, or § 3–211 of the Criminal Law Article if obtained contrary to the provisions of this subtitle.

(2) The fact of refusal to submit is admissible in evidence at the trial.

(d) Nothing in this section precludes or limits admissibility of evidence of a test or analysis to determine the alcohol concentration of a person's blood or breath which is obtained as provided in § 16–205.1(c) of the Transportation Article **OR § ~~8–738(B)(3)~~ 8–738.1 OF THE NATURAL RESOURCES ARTICLE.**

### Article – Natural Resources

8–738.

(a) ~~A~~ **SUBJECT TO SUBSECTION (G) OF THIS SECTION**, A person may not operate or attempt to operate a vessel while the person:

(1) Is under the influence of alcohol;

(2) Is impaired by alcohol;

(3) Is so far impaired by any drug, combination of drugs, or combination of one or more drugs and alcohol that the person cannot operate a vessel safely; or

(4) Is impaired by any controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, unless the person is entitled to use the controlled dangerous substance under the laws of the State.

(b) (1) Except as provided under paragraph (2) of this subsection, the evidentiary presumptions and procedures established under §§ 10–302 through ~~10–308~~ **10–309** of the Courts Article are applicable to any violation of this section.

(2) If at the time of testing an individual has an alcohol concentration that meets the definition of “under the influence of alcohol per se” in § 11–174.1 of the Transportation Article, as determined by an analysis of the individual's blood or breath, it shall be prima facie evidence that the individual was operating a vessel while under the influence of alcohol.

**(3) ~~(1) IF A PERSON IS INVOLVED IN AN ACCIDENT WHILE OPERATING OR ATTEMPTING TO OPERATE A VESSEL THAT RESULTS IN THE DEATH OF, OR A LIFE THREATENING INJURY TO, ANOTHER PERSON AND THE~~**

~~PERSON IS DETAINED BY A POLICE OFFICER WHO HAS REASONABLE GROUNDS TO BELIEVE THAT THE PERSON HAS BEEN OPERATING A VESSEL OR ATTEMPTING TO OPERATE A VESSEL WHILE UNDER THE INFLUENCE OF ALCOHOL, WHILE IMPAIRED BY ALCOHOL, WHILE SO FAR IMPAIRED BY ANY DRUG, ANY COMBINATION OF DRUGS, OR A COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL THAT THE PERSON COULD NOT OPERATE A VESSEL SAFELY, OR WHILE IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE, THE PERSON SHALL BE REQUIRED TO SUBMIT, AS DIRECTED BY THE OFFICER, TO A TEST OF:~~

~~1. THE PERSON'S BREATH TO DETERMINE ALCOHOL CONCENTRATION;~~

~~2. ONE SPECIMEN OF THE PERSON'S BLOOD TO DETERMINE ALCOHOL CONCENTRATION OR TO DETERMINE THE DRUG OR CONTROLLED DANGEROUS SUBSTANCE CONTENT OF THE PERSON'S BLOOD; OR~~

~~3. BOTH THE PERSON'S BREATH UNDER ITEM 1 OF THIS SUBPARAGRAPH AND ONE SPECIMEN OF THE PERSON'S BLOOD UNDER ITEM 2 OF THIS SUBPARAGRAPH.~~

~~(H) ANY MEDICAL PERSONNEL WHO PERFORM ANY TEST REQUIRED BY THIS PARAGRAPH ARE NOT LIABLE FOR ANY CIVIL DAMAGES AS THE RESULT OF ANY ACT OR OMISSION RELATED TO THE TEST, NOT AMOUNTING TO GROSS NEGLIGENCE~~ ANY PERSON WHO OPERATES OR ATTEMPTS TO OPERATE A VESSEL ~~UPON~~ ON THE WATERS OF THE STATE IS DEEMED TO HAVE CONSENTED, SUBJECT TO THE PROVISIONS OF §§ 10-302 THROUGH 10-309 OF THE COURTS ARTICLE, TO TAKE A TEST, AS DEFINED IN § 16-205.1 OF THE TRANSPORTATION ARTICLE, IF THE PERSON IS DETAINED BY A POLICE OFFICER WHO HAS REASONABLE GROUNDS TO BELIEVE THAT THE PERSON HAS BEEN OPERATING OR ATTEMPTING TO OPERATE A VESSEL WHILE UNDER THE INFLUENCE OF ALCOHOL, WHILE IMPAIRED BY ALCOHOL, WHILE SO FAR IMPAIRED BY ANY DRUG, ANY COMBINATION OF DRUGS, OR A COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL THAT THE PERSON COULD NOT OPERATE OR ATTEMPT TO OPERATE A ~~THE~~ VESSEL SAFELY, OR WHILE IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE.

~~(C) (1) EXCEPT AS PROVIDED IN § 8-738.1 OF THIS SUBTITLE, A PERSON MAY NOT BE COMPELLED TO TAKE A TEST, AS DEFINED IN § 16-205.1 OF THE TRANSPORTATION ARTICLE.~~

~~(2) UPON CONVICTION AND IN ADDITION TO ANY OTHER PENALTIES, A COURT MAY PROHIBIT A PERSON FROM OPERATING A VESSEL ON THE WATERS OF THE STATE FOR A PERIOD OF 1 YEAR IF THE PERSON WAS~~

~~DETAINED BY A POLICE OFFICER WHO HAD REASONABLE GROUNDS TO BELIEVE THAT THE PERSON WAS OPERATING A VESSEL WHILE UNDER THE INFLUENCE OF ALCOHOL, WHILE IMPAIRED BY ALCOHOL, WHILE SO FAR IMPAIRED BY ANY DRUG, ANY COMBINATION OF DRUGS, OR A COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL THAT THE PERSON COULD NOT OPERATE OR ATTEMPT TO OPERATE A VESSEL SAFELY, OR WHILE IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE AND THE PERSON REFUSED TO TAKE A TEST, OR WAS TESTED AND THE RESULT INDICATED AN ALCOHOL CONCENTRATION OF 0.08 OR MORE.~~

~~(3) A DETAINING OFFICER WHO HAS REASONABLE GROUNDS TO BELIEVE THAT A PERSON WAS OPERATING A VESSEL WHILE UNDER THE INFLUENCE OF ALCOHOL, WHILE IMPAIRED BY ALCOHOL, WHILE SO FAR IMPAIRED BY ANY DRUG, ANY COMBINATION OF DRUGS, OR A COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL THAT THE PERSON COULD NOT OPERATE OR ATTEMPT TO OPERATE A VESSEL SAFELY, OR WHILE IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE SHALL ADVISE THE PERSON OF THE SANCTIONS THAT MAY BE IMPOSED BY A COURT IF THE PERSON REFUSES TO TAKE A TEST OR TAKES A TEST AND THE RESULT INDICATES AN ALCOHOL CONCENTRATION OF 0.08 OR MORE.~~

*(2) THE DETAINING POLICE OFFICER SHALL ADVISE A PERSON WHO IS REQUESTED TO TAKE A TEST THAT, ON RECEIPT OF A SWORN STATEMENT FROM THE OFFICER THAT THE PERSON WAS REQUESTED TO TAKE A TEST AND REFUSED OR WAS TESTED AND THE RESULT INDICATED AN ALCOHOL CONCENTRATION OF 0.08 OR MORE, THE COURT MAY, ON CONVICTION AND IN ADDITION TO OTHER PENALTIES, PROHIBIT THE PERSON FROM OPERATING A VESSEL ON THE WATERS OF THE STATE FOR UP TO 1 YEAR.*

~~(D)~~ (D) It is not a defense to a charge of violating subsection (a)(3) of this section that the person charged is or was entitled under the laws of this State to use the drug, combination of drugs, or combination of [1] ONE or more drugs and alcohol, unless the person was unaware that the drug or combination would make the person incapable of safely operating a vessel.

~~(E)~~ (E) (1) Notwithstanding any other provision of this title, a person who violates [paragraph (1) of] subsection (a)(1) of this section is guilty of a misdemeanor and upon conviction:

(i) For a first offense, shall be subject to a fine of not more than \$1,000 or imprisonment for not more than 1 year or both;

(ii) For a second offense, shall be subject to a fine of not more than \$2,000 or imprisonment for not more than 2 years or both; and

(iii) For a third or subsequent offense, shall be subject to a fine of not more than \$3,000 or imprisonment for not more than 3 years or both.

(2) Notwithstanding any other provision of this title, a person who violates [paragraph (2), (3), or (4) of] subsection (a)(2), (3), OR (4) of this section is guilty of a misdemeanor and upon conviction:

(i) For a first offense, shall be subject to a fine of not more than \$500 or imprisonment for not more than 2 months or both; and

(ii) For a second or subsequent offense, shall be subject to a fine of not more than \$1,000 or imprisonment of not more than 1 year or both.

**(3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, THE COURT MAY PROHIBIT A PERSON CONVICTED OF A VIOLATION OF SUBSECTION (A)(1) OF THIS SECTION FROM OPERATING A VESSEL ON THE WATERS OF THE STATE FOR UP TO 1 YEAR IF THE PERSON:**

**(I) REFUSED TO TAKE A TEST, AS DEFINED IN § 16-205.1 OF THE TRANSPORTATION ARTICLE, WHEN REQUESTED BY A POLICE OFFICER UNDER SUBSECTION (B)(3) OF THIS SECTION; OR**

**(II) WAS TESTED AND THE RESULT INDICATED AN ALCOHOL CONCENTRATION OF 0.08 OR MORE.**

~~(E)~~ (F) If a person is charged with a violation of this section, the court may find the person guilty of any lesser included offense under any subsection of this section.

**(G) THIS SECTION APPLIES TO THE FOLLOWING:**

**(1) A VESSEL REQUIRED TO BE REGISTERED WITH THE DEPARTMENT UNDER THIS SUBTITLE;**

**(2) A VESSEL REQUIRED TO HAVE A VALID NUMBER AWARDED IN ACCORDANCE WITH A FEDERAL LAW OR A FEDERALLY APPROVED NUMBERING SYSTEM OF ANOTHER STATE; AND**

**(3) A VESSEL FROM A FOREIGN COUNTRY USING THE WATERS OF THIS STATE.**

**8-738.1.**

**(A) IF A PERSON IS INVOLVED IN AN ACCIDENT WHILE OPERATING OR ATTEMPTING TO OPERATE A VESSEL THAT RESULTS IN THE DEATH OF, OR A**

LIFE-THREATENING INJURY TO, ANOTHER PERSON AND THE PERSON IS DETAINED BY A POLICE OFFICER WHO HAS REASONABLE GROUNDS TO BELIEVE THAT THE PERSON ~~WAS~~ HAS BEEN OPERATING ~~THE~~ A VESSEL OR ATTEMPTING TO OPERATE ~~THE~~ A VESSEL WHILE UNDER THE INFLUENCE OF ALCOHOL, WHILE IMPAIRED BY ALCOHOL, WHILE SO FAR IMPAIRED BY ANY DRUG, ANY COMBINATION OF DRUGS, OR A COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL THAT THE PERSON COULD NOT OPERATE ~~THE~~ A VESSEL SAFELY, OR WHILE IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE, THE PERSON SHALL BE REQUIRED TO SUBMIT, AS DIRECTED BY THE POLICE OFFICER, TO A TEST OF:

(1) THE PERSON'S BREATH TO DETERMINE ALCOHOL CONCENTRATION;

(2) ONE SPECIMEN OF THE PERSON'S BLOOD TO DETERMINE ALCOHOL CONCENTRATION OR TO DETERMINE THE DRUG OR CONTROLLED DANGEROUS SUBSTANCE CONTENT OF THE PERSON'S BLOOD; OR

(3) BOTH THE PERSON'S BREATH UNDER ITEM (1) OF THIS SUBSECTION AND ONE SPECIMEN OF THE PERSON'S BLOOD UNDER ITEM (2) OF THIS SUBSECTION.

(B) IF A POLICE OFFICER DIRECTS THAT A PERSON BE TESTED, THEN THE PROVISIONS OF § 10-304 OF THE COURTS ARTICLE ~~SHALL~~ APPLY.

(C) ANY MEDICAL PERSONNEL WHO PERFORM ANY TEST REQUIRED BY THIS SECTION ARE NOT LIABLE FOR ANY CIVIL DAMAGES AS A RESULT OF ANY ACT OR OMISSION RELATED TO ~~SUCH TESTS~~ THE TEST, NOT AMOUNTING TO GROSS NEGLIGENCE.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 308

(Senate Bill 497)

AN ACT concerning

State Retirement and Pension System – Retiree Death Benefits

FOR the purpose of ~~repealing a certain benefit that is~~ clarifying that certain death benefits are payable on behalf of certain members of the State Retirement and Pension System under certain circumstances; requiring the Board of Trustees of the State Retirement and Pension System to pay a certain death benefit on behalf of certain retirees if the retirees die under certain circumstances; ~~requiring the Board of Trustees to make certain offsets to certain benefits under certain circumstances;~~ providing for the ~~application~~ termination of this Act; and generally relating to death benefits payable on behalf of retirees of the State Retirement and Pension System.

~~BY repealing and reenacting, with amendments,  
Article — State Personnel and Pensions  
Section 21-401  
Annotated Code of Maryland  
(2009 Replacement Volume and 2009 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~~

~~21-401.~~

~~(a) (1) Subject to paragraph (2) of this subsection, instead of the basic allowance provided under the State system of a member, the member may elect a reduced allowance to be paid as one of the options under § 21-403 of this subtitle.~~

~~(2) Paragraph (1) of this subsection applies to a member of:~~

~~(i) the Law Enforcement Officers' Pension System or State Police Retirement System only if, at retirement, the member does not have a spouse; and~~

~~(ii) the Judges' Retirement System only if, at retirement, the member does not have a spouse or child under the age of 18 years.~~

~~(b) To elect an optional form of allowance, a member shall:~~

~~(1) complete the appropriate form that the Board of Trustees provides; and~~

~~(2) file the form with the Board of Trustees before the first allowance payment normally becomes due.~~

~~(c) A member who has elected an optional form of allowance may change the election only if the member notifies the Board of Trustees before the first allowance payment normally becomes due.~~

~~[(d) If a member dies before the effective date of retirement, the Board of Trustees shall pay the DEATH benefits payable UNDER TITLE 29, SUBTITLE 2, OF THIS ARTICLE on the member's behalf as if the member had not elected an optional form of allowance.]~~

~~(D) (E) (1) THIS SUBSECTION APPLIES TO A RETIREE WHO:~~

~~(I) IS A RETIREE OF THE EMPLOYEES' RETIREMENT SYSTEM, THE TEACHERS' RETIREMENT SYSTEM, THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM, THE EMPLOYEES' PENSION SYSTEM, OR THE TEACHERS' PENSION SYSTEM;~~

~~(II) DIES ON OR BEFORE 30 DAYS AFTER THE RETIREE'S EFFECTIVE DATE OF RETIREMENT FROM THE STATE SYSTEM OF THE RETIREE THE LAST DAY OF THE MONTH OF THE RETIREE'S EFFECTIVE DATE OF RETIREMENT; AND~~

~~(III) AT THE TIME OF RETIREMENT, SELECTED THE BASIC ALLOWANCE UNDER THE STATE SYSTEM OF THE RETIREE.~~

~~(2) (I) A RETIREE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE CONSIDERED AS DYING WHILE EMPLOYED AS A MEMBER OF THE STATE SYSTEM FROM WHICH THE RETIREE RETIRED.~~

~~(II) THE BOARD OF TRUSTEES SHALL PAY THE BENEFITS PAYABLE ON THE RETIREE'S BEHALF AS PROVIDED UNDER § 29 202, § 29 205, OR § 29 206 OF THIS ARTICLE.~~

~~(3) THE BOARD OF TRUSTEES SHALL OFFSET ANY RETIREMENT ALLOWANCE PAYMENTS MADE TO THE RETIREE PRIOR TO THE RETIREE'S DEATH AGAINST ANY AMOUNTS PAYABLE UNDER § 29 202, § 29 205, OR § 29 206 OF THIS ARTICLE.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect the surviving spouse of any retiree who retired on or after March 1, 2008, from the Employees' Pension System and died within 30 days of retiring.~~

~~(a) This section applies to an individual who:~~

~~(1) was an employee of the Maryland Court of Appeals;~~

~~(2) on or after March 1, 2008, retired from the Employees' Pension System under Title 23 of the State Personnel and Pensions Article;~~

(3) at the time of retirement selected the basic allowance from the Employees' Pension System; and

(4) died within 30 days of retiring from the Employees' Pension System.

(b) (1) An individual under subsection (a) of this section shall be considered as dying while employed as a member of the Employees' Pension System.

(2) When the Board of Trustees receives proof of death of the individual, the Board of Trustees shall pay to the individual's surviving spouse, the following:

(i) the individual's member contributions plus interest in the Employees' Pension System; and

(ii) an amount equal to the individual's annual earnable compensation at the time of the individual's retirement.

SECTION ~~3~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010. It shall remain effective for a period of 6 months and, at the end of December 31, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

**Approved by the Governor, May 4, 2010.**

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## Chapter 309

**(Senate Bill 523)**

AN ACT concerning

### **Credit Card Blacklisting Prevention Act**

FOR the purpose of prohibiting a person from including or enforcing certain provisions in certain consumer credit contracts; providing that a provision included in a consumer credit contract in violation of certain provisions of this Act is void and unenforceable; permitting certain information to be used to detect or prevent certain fraudulent activity; providing that a violation of this Act is an unfair or deceptive trade practice within the meaning of the Maryland Consumer Protection Act and is subject to certain enforcement and penalty provisions; defining certain terms; and generally relating to consumer credit contracts.

BY adding to  
Article – Commercial Law

Section 14–1322  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

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

**Article – Commercial Law**

**14–1322.**

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

(2) “CONSUMER” MEANS A PURCHASER, LESSEE, OR RECIPIENT OF CONSUMER GOODS, CONSUMER SERVICES, OR CONSUMER CREDIT.

(3) “CONSUMER CREDIT CONTRACT” MEANS A WRITTEN AGREEMENT FOR THE PROVISION OF CONSUMER CREDIT BETWEEN A PERSON AND A CONSUMER WHO RESIDES IN THE STATE.

(4) “CONSUMER CREDIT”, “CONSUMER GOODS”, AND “CONSUMER SERVICES” MEAN, RESPECTIVELY, CREDIT, GOODS, AND SERVICES THAT ARE PRIMARILY FOR PERSONAL, HOUSEHOLD, OR FAMILY PURPOSES.

(5) “PROHIBITED RISK FACTOR” MEANS THE IDENTITY OF:

(I) A PERSON FROM WHOM A CONSUMER LAWFULLY OBTAINS CONSUMER CREDIT, CONSUMER GOODS, OR CONSUMER SERVICES; OR

(II) A PERSON WHO MAKES OR HOLDS A MORTGAGE LOAN ON A CONSUMER’S HOME.

(B) A PERSON MAY NOT INCLUDE OR ENFORCE A PROVISION IN A CONSUMER CREDIT CONTRACT, WITHOUT THE CONSUMER’S PRIOR WRITTEN CONSENT, THAT:

(1) TRIGGERS A DEFAULT UNDER THE CONSUMER CREDIT CONTRACT BASED ON A PROHIBITED RISK FACTOR; OR

(2) AUTHORIZES A PARTY TO THE CONSUMER CREDIT CONTRACT TO USE A PROHIBITED RISK FACTOR FOR THE PURPOSE OF:

(I) ACCELERATING A PAYMENT OWED UNDER THE CONSUMER CREDIT CONTRACT;

(II) INCREASING THE INTEREST RATE PAYABLE UNDER THE CONSUMER CREDIT CONTRACT;

(III) REDUCING THE CREDIT LIMIT AVAILABLE UNDER THE CONSUMER CREDIT CONTRACT; OR

(IV) ALTERING A TERM OF THE CONSUMER CREDIT CONTRACT IN ANY OTHER MANNER ADVERSE TO THE CONSUMER.

(C) A PROVISION INCLUDED IN A CONSUMER CREDIT CONTRACT IN VIOLATION OF SUBSECTION (B) OF THIS SECTION IS VOID AND UNENFORCEABLE.

(D) SUBSECTION (B) OF THIS SECTION DOES NOT PROHIBIT A PERSON FROM USING INFORMATION TO DETECT OR PREVENT FRAUDULENT ACTIVITY IN CONNECTION WITH THE PROVISION OF CONSUMER CREDIT.

(E) A VIOLATION OF THIS SECTION IS:

(1) AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE; AND

(2) SUBJECT TO THE PENALTY AND ENFORCEMENT PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 310

(Senate Bill 527)

AN ACT concerning

### Health and Human Services Referral Board – 2–1–1 Maryland – Modifications

FOR the purpose of requiring a certain agency or organization to be approved by 2–1–1 Maryland in order to provide 2–1–1 services in the State; providing that 2–1–1 Maryland may approve no more than a certain number of call centers to provide 2–1–1 services; requiring 2–1–1 Maryland to consider certain criteria

when approving a 2–1–1 service provider; requiring certain units of the State to consult with 2–1–1 Maryland under certain circumstances; altering the membership of the Health and Human Services Referral Board; providing for the appointment of members of the Board when a vacancy occurs; providing that a member of the Board may not serve more than two consecutive full terms; authorizing the Board to make a certain determination regarding Board meetings and to adopt certain rules; providing that a majority of Board members constitutes a quorum for a certain purpose; authorizing the Board to elect certain officers; providing that members of the Board serve without compensation but are entitled to a certain reimbursement; requiring the composition of the Board as to the race and gender of its members to reflect the composition of the population of the State; altering the duties of the Board; defining certain terms; repealing a certain definition; requiring a certain call center to align with 2–1–1 Maryland on or before a certain date under certain circumstances; and generally relating to the Health and Human Services Referral Board.

BY repealing and reenacting, with amendments,

Article – Health – General  
Section 24–1201 through 24–1205  
Annotated Code of Maryland  
(2009 Replacement Volume)

BY adding to

Article – Health – General  
Section 24–1203  
Annotated Code of Maryland  
(2009 Replacement Volume)

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

### **Article – Health – General**

24–1201.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Board” means the Health and Human Services Referral Board.
- (c) “Health and Human Services Referral System” means telephone service that automatically connects an individual dialing the digits 2–1–1 to an established information and referral answering point.

[(d) (1) “Pilot program” means one of four self-funded pilot programs established before October 1, 2004, by a task force designated by the State of Maryland Public Service Commission that includes the Maryland State Association of

United Ways, the United Way of Central Maryland, the Alliance of Information and Referral Systems, and local health and human service organizations.

- (2) "Pilot program" includes:
- (i) Community Crisis Services, Inc.;
  - (ii) United Way of Central Maryland – First Call for Help;
  - (iii) Mental Health Association of Frederick County; and
  - (iv) Life Crisis Center, Inc.]

**(D) "2-1-1" MEANS THE ABBREVIATED DIALING CODE ASSIGNED BY THE FEDERAL COMMUNICATIONS COMMISSION FOR CONSUMER ACCESS TO COMMUNITY INFORMATION AND REFERRAL SERVICES.**

**(E) "2-1-1 MARYLAND" MEANS THE MARYLAND INFORMATION NETWORK, 2-1-1 MARYLAND, A 501(C)(3) CORPORATION IN THE STATE.**

**(F) "2-1-1 MARYLAND CALL CENTER" MEANS A NONPROFIT AGENCY OR ORGANIZATION DESIGNATED BY 2-1-1 MARYLAND TO PROVIDE 2-1-1 SERVICES.**

24-1202.

- (a) The General Assembly:

(1) Recognizes the importance of a statewide information and referral system for health and human services;

(2) Recognizes that an integrated telephone system would provide a single source for information and referral to health and human services, community preparedness, and crisis information and could be accessed toll free from anywhere in Maryland, 24 hours a day, 365 days a year;

(3) Acknowledges that the three-digit number, 2-1-1, is a nationally recognized and applied telephone number which may be used for information and referral and eliminates delays caused by lack of familiarity with health and human service numbers and by understandable confusion in circumstances of crisis; and

(4) Recognizes a demonstrated need for an easy to remember, easy to use telephone number that will enable individuals in need to be directed to available community resources.

- (b) The purposes of this subtitle are to:

(1) Establish the three-digit number, 2-1-1, as the primary information and referral telephone number for health and human services in the State; and

(2) Establish a board to oversee the [pilot programs and study the orderly installation, maintenance, and] **2-1-1 MARYLAND CALL CENTERS AND THE** operation of a statewide Health and Human Services Referral System in the State.

**24-1203.**

(A) **EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, AN AGENCY OR ORGANIZATION SHALL BE APPROVED BY 2-1-1 MARYLAND AS A 2-1-1 MARYLAND CALL CENTER IN ORDER TO PROVIDE 2-1-1 SERVICES IN THE STATE.**

(B) **NO MORE THAN FIVE CALL CENTERS MAY BE APPROVED BY 2-1-1 MARYLAND TO PROVIDE 2-1-1 TELEPHONE SERVICES IN THE STATE.**

(C) **WHEN APPROVING A 2-1-1 SERVICE PROVIDER, 2-1-1 MARYLAND SHALL CONSIDER:**

(1) **THE ABILITY OF THE PROPOSED 2-1-1 SERVICE PROVIDER TO MEET THE NATIONAL 2-1-1 STANDARDS RECOMMENDED BY:**

(i) **THE ALLIANCE OF INFORMATION AND REFERRAL SYSTEMS AND ADOPTED BY THE NATIONAL 2-1-1 COLLABORATIVE; OR**

(ii) **AN EQUIVALENT ENTITY;**

(2) **THE FINANCIAL STABILITY OF THE PROPOSED 2-1-1 SERVICE PROVIDER;**

(3) **ANY COMMUNITY SUPPORT FOR THE PROPOSED 2-1-1 SERVICE PROVIDER;**

(4) **ANY EXPERIENCE THAT THE PROPOSED 2-1-1 SERVICE PROVIDER HAS WITH OTHER INFORMATION AND REFERRAL SERVICES; ~~AND~~**

(5) **THE DEGREE TO WHICH THE COUNTY IN WHICH THE PROPOSED CALL CENTER IS TO BE LOCATED HAS DEDICATED SUBSTANTIAL RESOURCES TO THE ESTABLISHMENT OF A SINGLE TELEPHONE SOURCE FOR NON-EMERGENCY INQUIRIES REGARDING COUNTY SERVICES; AND**

~~(5)~~ (6) ANY OTHER CRITERIA THAT 2-1-1 MARYLAND CONSIDERS APPROPRIATE.

(D) IF A UNIT OF THE STATE THAT PROVIDES HEALTH AND HUMAN SERVICES ESTABLISHES A PUBLIC INFORMATION TELEPHONE LINE OR HOTLINE, THE UNIT SHALL CONSULT WITH 2-1-1 MARYLAND ABOUT USING THE 2-1-1 SYSTEM TO PROVIDE PUBLIC ACCESS TO INFORMATION.

[24-1203.] 24-1204.

(a) There is a Health and Human Services Referral Board in the Department of Health and Mental Hygiene.

(b) [(1)] The Board [consists] SHALL CONSIST of [17] THE FOLLOWING members[.]:

[(2)] Of the 17 members:

(i) One member shall represent the Department of Health and Mental Hygiene;

(ii) One member shall represent the Department of Human Resources;

(iii) One member shall represent the Department of Public Safety and Corrections;

(iv) One member shall represent the Department of Aging;

(v) One member shall represent the Department of Business and Economic Development;

(vi) One member shall represent the Maryland Emergency Management Agency;

(vii) One member shall represent the Maryland State Association of United Ways;

(viii) One member shall represent the United Way of Central Maryland;

(ix) One member shall represent the Maryland Public Service Commission;

(x) One member shall represent a public telephone utility company operating in the State;

- State;
- (xi) One member shall represent a nonprofit organization in the State;
  - (xii) One member shall represent Maryland's volunteer centers;
  - (xiii) One member shall represent the Maryland Emergency Number Systems Board;
  - (xiv) One member shall represent the philanthropic community;
  - (xv) One member shall represent the Maryland Child Care Resource Network;
  - (xvi) One member shall represent the Department of Disabilities;
- and
- (xvii) One member shall represent the community at large.

~~[(3) The Governor shall appoint the members with the advice and consent of the Senate.]~~

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

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

**(3) THE SECRETARY OF HUMAN RESOURCES, OR THE SECRETARY'S DESIGNEE;**

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

**(5) THE SECRETARY OF INFORMATION TECHNOLOGY, OR THE SECRETARY'S DESIGNEE;**

**(6) THE SECRETARY OF AGING, OR THE SECRETARY'S DESIGNEE;**

~~(6)~~ **(7) A REPRESENTATIVE OF THE OFFICE OF HOMELAND SECURITY, APPOINTED BY THE GOVERNOR;**

~~(7)~~ **(8) A REPRESENTATIVE OF 2-1-1 MARYLAND, INC., APPOINTED BY THE BOARD OF DIRECTORS OF 2-1-1 MARYLAND;**

~~(8)~~ **(9)** A REPRESENTATIVE OF EACH 2-1-1 MARYLAND CALL CENTER, APPOINTED BY THE CALL CENTER;

**(10)** A REPRESENTATIVE OF THE MARYLAND CHILD CARE RESOURCE NETWORK, APPOINTED BY THE GOVERNOR;

~~(9)~~ **(11)** A REPRESENTATIVE OF THE MARYLAND STATE ASSOCIATION OF UNITED WAYS, APPOINTED BY THE GOVERNOR; AND

~~(10)~~ **(12)** TWO MEMBERS OF THE PUBLIC WITH EXPERIENCE IN TELECOMMUNICATIONS, APPOINTED BY THE GOVERNOR.

(c) (1) The term of a member is 4 years.

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

(3) If a vacancy occurs after a term has begun, [the Governor shall appoint] a successor **SHALL BE APPOINTED** to represent the organization or group in which the vacancy occurs.

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

**(5) A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE FULL TERMS.**

[(d) The Governor shall appoint a chairperson from among the Board members.

(e) A member of the Board may not receive compensation as a member of the Board.]

**(D) THE BOARD SHALL DETERMINE THE TIME AND PLACE OF THE MEETINGS AND MAY ADOPT RULES FOR THE CONDUCT OF THE MEETINGS.**

**(E) A MAJORITY OF THE BOARD MEMBERS CONSTITUTES A QUORUM FOR TRANSACTING BUSINESS AT ANY MEETING AND ACTION BY A MAJORITY OF BOARD MEMBERS PRESENT AT THE MEETING SHALL BE AN ACT OF THE BOARD.**

**(F) EACH YEAR, THE BOARD SHALL ELECT FROM AMONG THE MEMBERS:**

**(1) A CHAIR AND VICE CHAIR; AND**

(2) ANY OTHER OFFICER THE BOARD REQUIRES.

(G) EACH MEMBER OF THE BOARD:

(1) SERVES WITHOUT COMPENSATION; BUT

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

[f] (H) The Maryland State Association of United Ways shall provide staff to the Board.

(I) THE COMPOSITION OF THE BOARD AS TO THE RACE AND GENDER OF ITS MEMBERS SHALL REFLECT THE COMPOSITION OF THE POPULATION OF THE STATE.

[24–1204.] 24–1205.

(a) The Board shall [oversee the pilot programs and determine:

(1) How to implement the Health and Human Services Referral System statewide;

(2) How to integrate emergency and nonemergency numbers; and

(3) Options on funding the Health and Human Services Referral System];

(1) MAINTAIN PUBLIC INFORMATION AVAILABLE FROM STATE AGENCIES, PROGRAMS, AND DEPARTMENTS THAT PROVIDE HEALTH AND HUMAN SERVICES;

(2) SUPPORT PROJECTS AND ACTIVITIES THAT FURTHER THE DEVELOPMENT OF 2–1–1 MARYLAND;

(3) EXAMINE AND MAKE RECOMMENDATIONS TO MAXIMIZE THE USE OF INFORMATION TECHNOLOGY IN MAKING 2–1–1 SERVICES AVAILABLE THROUGHOUT THE STATE; AND

(4) EVALUATE THE PERFORMANCE OF EACH 2–1–1 MARYLAND CALL CENTERS CENTER;

(5) MAKE RECOMMENDATIONS TO 2–1–1 MARYLAND REGARDING THE QUALITY OF SERVICE PROVIDED BY CALL CENTERS OR THE PERFORMANCE

**OF CALL CENTERS WHEN ISSUES RELATED TO SERVICE QUALITY AND PERFORMANCE ARE PRESENTED TO THE BOARD;**

**(6) MAKE RECOMMENDATIONS REGARDING CORRECTIVE ACTION TO BE TAKEN BY A CALL CENTER, AS APPROPRIATE; AND**

**(7) DEVELOP POLICIES AND PROCEDURES GOVERNING CONFLICT OF INTEREST STANDARDS FOR BOARD MEMBERS.**

(b) On or before December 31, 2005, and every year thereafter, the Board shall report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly on the activities performed under subsection (a) of this section.

[24-1205.] **24-1206.**

Funding for the Board is subject to the availability of appropriated funds.

SECTION 2. AND BE IT FURTHER ENACTED, That if 2-1-1 Maryland approves a call center to be located in Montgomery County, the call center shall align with 2-1-1 Maryland on or before July 1, 2011.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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**Chapter 311**

**(House Bill 693)**

AN ACT concerning

**Health and Human Services Referral Board – 2-1-1 Maryland – Modifications**

FOR the purpose of requiring a certain agency or organization to be approved by 2-1-1 Maryland in order to provide 2-1-1 services in the State; providing that 2-1-1 Maryland may approve no more than a certain number of call centers to provide 2-1-1 services; requiring 2-1-1 Maryland to consider certain criteria when approving a 2-1-1 service provider; requiring certain units of the State to consult with 2-1-1 Maryland under certain circumstances; altering the membership of the Health and Human Services Referral Board; providing for the appointment of members of the Board when a vacancy occurs; providing that a member of the Board may not serve more than two consecutive full

terms; authorizing the Board to make a certain determination regarding Board meetings and to adopt certain rules; providing that a majority of Board members constitutes a quorum for a certain purpose; authorizing the Board to elect certain officers; providing that members of the Board serve without compensation but are entitled to a certain reimbursement; requiring the composition of the Board as to the race and gender of its members to reflect the composition of the population of the State; altering the duties of the Board; defining certain terms; repealing a certain definition; requiring a certain call center to align with 2–1–1 Maryland on or before a certain date under certain circumstances; and generally relating to the Health and Human Services Referral Board.

BY repealing and reenacting, with amendments,

Article – Health – General  
Section 24–1201 through 24–1205  
Annotated Code of Maryland  
(2009 Replacement Volume)

BY adding to

Article – Health – General  
Section 24–1203  
Annotated Code of Maryland  
(2009 Replacement Volume)

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

### **Article – Health – General**

24–1201.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Board” means the Health and Human Services Referral Board.
- (c) “Health and Human Services Referral System” means telephone service that automatically connects an individual dialing the digits 2–1–1 to an established information and referral answering point.

[(d) (1) “Pilot program” means one of four self-funded pilot programs established before October 1, 2004, by a task force designated by the State of Maryland Public Service Commission that includes the Maryland State Association of United Ways, the United Way of Central Maryland, the Alliance of Information and Referral Systems, and local health and human service organizations.

- (2) “Pilot program” includes:

- (i) Community Crisis Services, Inc.;
- (ii) United Way of Central Maryland – First Call for Help;
- (iii) Mental Health Association of Frederick County; and
- (iv) Life Crisis Center, Inc.]

**(D) “2–1–1” MEANS THE ABBREVIATED DIALING CODE ASSIGNED BY THE FEDERAL COMMUNICATIONS COMMISSION FOR CONSUMER ACCESS TO COMMUNITY INFORMATION AND REFERRAL SERVICES.**

**(E) “2–1–1 MARYLAND” MEANS THE MARYLAND INFORMATION NETWORK, 2–1–1 MARYLAND, A 501(C)(3) CORPORATION IN THE STATE.**

**(F) “2–1–1 MARYLAND CALL CENTER” MEANS A NONPROFIT AGENCY OR ORGANIZATION DESIGNATED BY 2–1–1 MARYLAND TO PROVIDE 2–1–1 SERVICES.**

24–1202.

(a) The General Assembly:

(1) Recognizes the importance of a statewide information and referral system for health and human services;

(2) Recognizes that an integrated telephone system would provide a single source for information and referral to health and human services, community preparedness, and crisis information and could be accessed toll free from anywhere in Maryland, 24 hours a day, 365 days a year;

(3) Acknowledges that the three–digit number, 2–1–1, is a nationally recognized and applied telephone number which may be used for information and referral and eliminates delays caused by lack of familiarity with health and human service numbers and by understandable confusion in circumstances of crisis; and

(4) Recognizes a demonstrated need for an easy to remember, easy to use telephone number that will enable individuals in need to be directed to available community resources.

(b) The purposes of this subtitle are to:

(1) Establish the three–digit number, 2–1–1, as the primary information and referral telephone number for health and human services in the State; and

(2) Establish a board to oversee the [pilot programs and study the orderly installation, maintenance, and] **2-1-1 MARYLAND CALL CENTERS AND THE** operation of a statewide Health and Human Services Referral System in the State.

**24-1203.**

(A) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, AN AGENCY OR ORGANIZATION SHALL BE APPROVED BY **2-1-1 MARYLAND** AS A **2-1-1 MARYLAND CALL CENTER** IN ORDER TO PROVIDE **2-1-1 SERVICES** IN THE STATE.

(B) NO MORE THAN FIVE CALL CENTERS MAY BE APPROVED BY **2-1-1 MARYLAND** TO PROVIDE **2-1-1 TELEPHONE SERVICES** IN THE STATE.

(C) WHEN APPROVING A **2-1-1 SERVICE PROVIDER**, **2-1-1 MARYLAND** SHALL CONSIDER:

(1) THE ABILITY OF THE PROPOSED **2-1-1 SERVICE PROVIDER** TO MEET THE NATIONAL **2-1-1 STANDARDS** RECOMMENDED BY:

(I) THE ALLIANCE OF INFORMATION AND REFERRAL SYSTEMS AND ADOPTED BY THE NATIONAL **2-1-1 COLLABORATIVE**; OR

(II) AN EQUIVALENT ENTITY;

(2) THE FINANCIAL STABILITY OF THE PROPOSED **2-1-1 SERVICE PROVIDER**;

(3) ANY COMMUNITY SUPPORT FOR THE PROPOSED **2-1-1 SERVICE PROVIDER**;

(4) ANY EXPERIENCE THAT THE PROPOSED **2-1-1 SERVICE PROVIDER** HAS WITH OTHER INFORMATION AND REFERRAL SERVICES; ~~AND~~

(5) THE DEGREE TO WHICH THE COUNTY IN WHICH THE PROPOSED CALL CENTER IS TO BE LOCATED HAS DEDICATED SUBSTANTIAL RESOURCES TO THE ESTABLISHMENT OF A SINGLE TELEPHONE SOURCE FOR NON-EMERGENCY INQUIRIES REGARDING COUNTY SERVICES; AND

~~(5)~~ (6) ANY OTHER CRITERIA THAT **2-1-1 MARYLAND** CONSIDERS APPROPRIATE.

(D) IF A UNIT OF THE STATE THAT PROVIDES HEALTH AND HUMAN SERVICES ESTABLISHES A PUBLIC INFORMATION TELEPHONE LINE OR

**HOTLINE, THE UNIT SHALL CONSULT WITH 2-1-1 MARYLAND ABOUT USING THE 2-1-1 SYSTEM TO PROVIDE PUBLIC ACCESS TO INFORMATION.**

**[24-1203.] 24-1204.**

(a) There is a Health and Human Services Referral Board in the Department of Health and Mental Hygiene.

(b) **[(1)]** The Board **[consists]** **SHALL CONSIST** of **[17]** **THE FOLLOWING** members~~[.]~~:

**[(2)]** Of the 17 members:

(i) One member shall represent the Department of Health and Mental Hygiene;

(ii) One member shall represent the Department of Human Resources;

(iii) One member shall represent the Department of Public Safety and Corrections;

(iv) One member shall represent the Department of Aging;

(v) One member shall represent the Department of Business and Economic Development;

(vi) One member shall represent the Maryland Emergency Management Agency;

(vii) One member shall represent the Maryland State Association of United Ways;

(viii) One member shall represent the United Way of Central Maryland;

(ix) One member shall represent the Maryland Public Service Commission;

(x) One member shall represent a public telephone utility company operating in the State;

(xi) One member shall represent a nonprofit organization in the State;

(xii) One member shall represent Maryland's volunteer centers;

(xiii) One member shall represent the Maryland Emergency Number Systems Board;

(xiv) One member shall represent the philanthropic community;

(xv) One member shall represent the Maryland Child Care Resource Network;

(xvi) One member shall represent the Department of Disabilities;  
and

(xvii) One member shall represent the community at large.

~~[(3) The Governor shall appoint the members with the advice and consent of the Senate.]~~

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

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

**(3) THE SECRETARY OF HUMAN RESOURCES, OR THE SECRETARY'S DESIGNEE;**

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

**(5) THE SECRETARY OF INFORMATION TECHNOLOGY, OR THE SECRETARY'S DESIGNEE;**

**(6) THE SECRETARY OF AGING, OR THE SECRETARY'S DESIGNEE;**

~~**(6) (7) A REPRESENTATIVE OF THE OFFICE OF HOMELAND SECURITY, APPOINTED BY THE GOVERNOR;**~~

~~**(7) (8) A REPRESENTATIVE OF 2-1-1 MARYLAND, INC., APPOINTED BY THE BOARD OF DIRECTORS OF 2-1-1 MARYLAND;**~~

~~**(8) (9) A REPRESENTATIVE OF EACH 2-1-1 MARYLAND CALL CENTER, APPOINTED BY THE CALL CENTER;**~~

**(10) A REPRESENTATIVE OF THE MARYLAND CHILD CARE RESOURCE NETWORK, APPOINTED BY THE GOVERNOR;**

~~(9)~~ **(11) A REPRESENTATIVE OF THE MARYLAND STATE ASSOCIATION OF UNITED WAYS, APPOINTED BY THE GOVERNOR; AND**

~~(10)~~ **(12) TWO MEMBERS OF THE PUBLIC WITH EXPERIENCE IN TELECOMMUNICATIONS, APPOINTED BY THE GOVERNOR.**

(c) (1) The term of a member is 4 years.

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

(3) If a vacancy occurs after a term has begun, [the Governor shall appoint] a successor **SHALL BE APPOINTED** to represent the organization or group in which the vacancy occurs.

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

**(5) A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE FULL TERMS.**

[(d) The Governor shall appoint a chairperson from among the Board members.

(e) A member of the Board may not receive compensation as a member of the Board.]

**(D) THE BOARD SHALL DETERMINE THE TIME AND PLACE OF THE MEETINGS AND MAY ADOPT RULES FOR THE CONDUCT OF THE MEETINGS.**

**(E) A MAJORITY OF THE BOARD MEMBERS CONSTITUTES A QUORUM FOR TRANSACTING BUSINESS AT ANY MEETING AND ACTION BY A MAJORITY OF BOARD MEMBERS PRESENT AT THE MEETING SHALL BE AN ACT OF THE BOARD.**

**(F) EACH YEAR, THE BOARD SHALL ELECT FROM AMONG THE MEMBERS:**

**(1) A CHAIR AND VICE CHAIR; AND**

**(2) ANY OTHER OFFICER THE BOARD REQUIRES.**

**(G) EACH MEMBER OF THE BOARD:**

**(1) SERVES WITHOUT COMPENSATION; BUT**

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

**[(f)] (H)** The Maryland State Association of United Ways shall provide staff to the Board.

**(I) THE COMPOSITION OF THE BOARD AS TO THE RACE AND GENDER OF ITS MEMBERS SHALL REFLECT THE COMPOSITION OF THE POPULATION OF THE STATE.**

**[24–1204.] 24–1205.**

(a) The Board shall [oversee the pilot programs and determine:

(1) How to implement the Health and Human Services Referral System statewide;

(2) How to integrate emergency and nonemergency numbers; and

(3) Options on funding the Health and Human Services Referral System];

**(1) MAINTAIN PUBLIC INFORMATION AVAILABLE FROM STATE AGENCIES, PROGRAMS, AND DEPARTMENTS THAT PROVIDE HEALTH AND HUMAN SERVICES;**

**(2) SUPPORT PROJECTS AND ACTIVITIES THAT FURTHER THE DEVELOPMENT OF 2–1–1 MARYLAND;**

**(3) EXAMINE AND MAKE RECOMMENDATIONS TO MAXIMIZE THE USE OF INFORMATION TECHNOLOGY IN MAKING 2–1–1 SERVICES AVAILABLE THROUGHOUT THE STATE; AND**

**(4) EVALUATE THE PERFORMANCE OF EACH 2–1–1 MARYLAND CALL CENTERS CENTER;**

**(5) MAKE RECOMMENDATIONS TO 2–1–1 MARYLAND REGARDING THE QUALITY OF SERVICE PROVIDED BY CALL CENTERS OR THE PERFORMANCE OF CALL CENTERS WHEN ISSUES RELATED TO SERVICE QUALITY AND PERFORMANCE ARE PRESENTED TO THE BOARD;**

**(6) MAKE RECOMMENDATIONS REGARDING CORRECTIVE ACTION TO BE TAKEN BY A CALL CENTER, AS APPROPRIATE; AND**

**(7) DEVELOP POLICIES AND PROCEDURES GOVERNING CONFLICT OF INTEREST STANDARDS FOR BOARD MEMBERS.**

(b) On or before December 31, 2005, and every year thereafter, the Board shall report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly on the activities performed under subsection (a) of this section.

[24-1205.] **24-1206.**

Funding for the Board is subject to the availability of appropriated funds.

SECTION 2. AND BE IT FURTHER ENACTED, That if 2-1-1 Maryland approves a call center to be located in Montgomery County, the call center shall align with 2-1-1 Maryland on or before July 1, 2011.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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**Chapter 312**

**(Senate Bill 531)**

AN ACT concerning

**Civil Actions – Limitation of Actions – Land Surveyors**

FOR the purpose of altering the time period after which a person may not seek damages incurred as a result of an error in a land survey; providing for the application of this Act; and generally relating to the limitation of actions against land surveyors.

BY repealing and reenacting, with amendments,  
 Article – Courts and Judicial Proceedings  
 Section 5-112  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2009 Supplement)

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

**Article – Courts and Judicial Proceedings**

5–112.

No cause of action for damages accrues and a person may not seek contribution or indemnity for damages incurred for an error in a survey of land unless an action for damages is brought within [15] 10 years of the survey, or within 3 years after the discovery of the error, whichever occurs first.

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 cause of action arising before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 313**

**(House Bill 907)**

AN ACT concerning

### **Civil Actions – Limitation of Actions – Land Surveyors**

FOR the purpose of altering the time period after which a person may not seek damages incurred as a result of an error in a land survey; providing for the application of this Act; and generally relating to the limitation of actions against land surveyors.

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 5–112  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 Supplement)

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

### **Article – Courts and Judicial Proceedings**

5–112.

No cause of action for damages accrues and a person may not seek contribution or indemnity for damages incurred for an error in a survey of land unless an action for damages is brought within [15] 10 years of the survey, or within 3 years after the discovery of the error, whichever occurs first.

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 cause of action arising before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 314

(Senate Bill 538)

AN ACT concerning

**Residential Multiple Occupancy Buildings ~~and Shopping Centers~~ – Master Meters – Heating, Ventilation, and Air Conditioning Services**

FOR the purpose of authorizing the Public Service Commission to authorize the use of a certain master meter for heating, ventilation, and air conditioning services in certain residential multiple occupancy buildings ~~and shopping centers~~ without requiring individual metering or submetering for heating, ventilation, and air conditioning services under certain circumstances; authorizing the Commission to review certain information before authorizing use of a master meter; authorizing an electric company or a gas company to inspect and test certain master meters in accordance with a certain provision of law; defining ~~certain terms~~ a certain term; providing for the termination of this Act; and generally relating to metering for electricity and natural gas in residential multiple occupancy buildings ~~and shopping centers~~.

BY repealing and reenacting, with amendments,  
 Article – Public Utility Companies  
 Section 7-301  
 Annotated Code of Maryland  
 (2008 Replacement Volume and 2009 Supplement)

BY adding to  
 Article – Public Utility Companies  
 Section 7-304.1

Annotated Code of Maryland  
(2008 Replacement Volume and 2009 Supplement)

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

**Article – Public Utility Companies**

7–301.

(a) A person may not furnish or put in use for revenue billing purposes a gas meter or electric meter unless the Commission has authorized the meter's use.

(b) (1) Each gas company and electric company shall maintain suitable equipment, approved by the Commission, for testing the accuracy of a gas meter or electric meter furnished by the company for use by its customers.

(2) The gas company or electric company shall test a customer's meter with the equipment in accordance with § 7–302 of this subtitle.

(3) A small rural electric cooperative described in § 7–502(a) of this title may satisfy this section by demonstrating that the electric meters which it furnishes to customers comply with the standards of the utility regulatory body of the state in which the cooperative has its principal place of business.

(c) (1) This subsection applies to:

(i) a new residential multiple occupancy building;

(ii) a new shopping center; or

(iii) a new housing unit that is constructed, managed, operated, developed, or subsidized by a local housing authority established under Division II of the Housing and Community Development Article.

(2) The service restrictions imposed under this subsection do not apply to central hot water.

(3) **[The] EXCEPT AS PROVIDED IN § 7–304.1 OF THIS SUBTITLE,** THE Commission may not authorize a gas company or electric company to service an occupancy unit or shopping center unit subject to this subsection unless the building or shopping center has individual metered service or submetering as provided under § 7–303 or § 7–304 of this subtitle for each individually leased or owned occupancy unit or shopping center unit.

(4) In accordance with its regulations, the Commission may authorize a gas company or electric company to provide service for central heating or cooling

systems, or a combination of those systems, to an occupancy unit or shopping center unit subject to this subsection if the Commission is satisfied that the service will result in a substantial net saving of energy over the energy saving that would result from individual metering or submetering as provided under § 7-303 or § 7-304 of this subtitle.

(d) The owner, operator, or manager of a residential multiple occupancy building or shopping center subject to this section may not impose a utility cost on an occupancy unit or shopping center unit, except for charges that:

(1) the Commission authorizes the gas company or electric company to impose; and

(2) the gas company or electric company actually imposes on the owner, operator, or manager.

#### 7-304.1.

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

~~(2) “MASTER, “MASTER METER” MEANS A METER USED TO MEASURE, FOR BILLING PURPOSES, THE TOTAL AMOUNT OF ELECTRICITY OR NATURAL GAS USED IN A BUILDING BY A HEATING, VENTILATION, AND AIR CONDITIONING SYSTEM, INCLUDING THE COMBINED USE FROM ALL INDIVIDUALLY LEASED OR OWNED UNITS AND ALL COMMON AREAS.~~

~~(3) “SHOPPING CENTER” HAS THE MEANING STATED IN § 7-303 OF THIS SUBTITLE.~~

(B) THE COMMISSION MAY AUTHORIZE THE USE OF A MASTER METER IN A RESIDENTIAL MULTIPLE OCCUPANCY BUILDING ~~OR SHOPPING CENTER~~ FOR HEATING, VENTILATION, AND AIR CONDITIONING SERVICES WITHOUT REQUIRING INDIVIDUAL METERING OR SUBMETERING FOR HEATING, VENTILATION, AND AIR CONDITIONING SERVICES AS PROVIDED UNDER § 7-303 OR § 7-304 OF THIS SUBTITLE IF:

(1) THE UTILITY BILL FOR HEATING, VENTILATION, AND AIR CONDITIONING SERVICES FOR EACH INDIVIDUALLY LEASED OR OWNED OCCUPANCY UNIT ~~OR SHOPPING CENTER UNIT~~ IS INCLUDED IN THE RENT FOR THAT UNIT; ~~AND~~

(2) THE COMMISSION IS SATISFIED THAT THE USE OF THE MASTER METER FOR HEATING, VENTILATION, AND AIR CONDITIONING SERVICES WILL RESULT IN A NET SAVINGS OF ENERGY OVER THE ENERGY SAVINGS THAT

WOULD RESULT FROM INDIVIDUAL METERING OR SUBMETERING FOR HEATING, VENTILATION, AND AIR CONDITIONING SERVICES; AND

**(3) EACH INDIVIDUALLY LEASED OR OWNED OCCUPANCY UNIT:**

**(I) HAS INDIVIDUAL METERED SERVICE FOR OTHER ENERGY SERVICES; AND**

**(II) DIRECTLY RECEIVES THE UTILITY BILL FOR THE OTHER ENERGY SERVICES.**

**(C) BEFORE AUTHORIZING THE USE OF A MASTER METER FOR HEATING, VENTILATION, AND AIR CONDITIONING SERVICES, THE COMMISSION MAY REVIEW THE PROPOSED ALLOCATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEM EXPENSES AMONG INDIVIDUAL UNITS AND COMMON AREAS SERVED BY THE MASTER METER.**

**(D) IN ACCORDANCE WITH § 7-301 OF THIS SUBTITLE, AN ELECTRIC COMPANY OR A GAS COMPANY MAY INSPECT AND TEST A MASTER METER AUTHORIZED FOR USE BY THE COMMISSION UNDER THIS SECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2010. It shall remain effective for a period of 3 years and, at the end of June 30, 2013, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 4, 2010.

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## Chapter 315

(House Bill 1138)

AN ACT concerning

**Residential Multiple Occupancy Buildings ~~and Shopping Centers~~ – Master Meters – Heating, Ventilation, and Air Conditioning Services**

FOR the purpose of authorizing the Public Service Commission to authorize the use of a certain master meter *for heating, ventilation, and air conditioning services* in certain residential multiple occupancy buildings ~~and shopping centers~~ without requiring individual metering or submetering *for heating, ventilation, and air conditioning services* under certain circumstances; authorizing the Commission to review certain information before authorizing the use of a master meter; authorizing an electric company or a gas company to inspect and test certain

master meters in accordance with a certain provision of law; ~~providing for a certain exception;~~ defining ~~certain terms~~ *a certain term*; *providing for the termination of this Act*; and generally relating to metering for electricity and natural gas in residential multiple occupancy buildings ~~and shopping centers.~~

BY repealing and reenacting, with amendments,  
 Article – Public Utility Companies  
 Section 7–301  
 Annotated Code of Maryland  
 (2008 Replacement Volume and 2009 Supplement)

BY adding to  
 Article – Public Utility Companies  
 Section 7–304.1  
 Annotated Code of Maryland  
 (2008 Replacement Volume and 2009 Supplement)

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

### **Article – Public Utility Companies**

7–301.

(a) A person may not furnish or put in use for revenue billing purposes a gas meter or electric meter unless the Commission has authorized the meter's use.

(b) (1) Each gas company and electric company shall maintain suitable equipment, approved by the Commission, for testing the accuracy of a gas meter or electric meter furnished by the company for use by its customers.

(2) The gas company or electric company shall test a customer's meter with the equipment in accordance with § 7–302 of this subtitle.

(3) A small rural electric cooperative described in § 7–502(a) of this title may satisfy this section by demonstrating that the electric meters which it furnishes to customers comply with the standards of the utility regulatory body of the state in which the cooperative has its principal place of business.

- (c) (1) This subsection applies to:
- (i) a new residential multiple occupancy building;
  - (ii) a new shopping center; or

(iii) a new housing unit that is constructed, managed, operated, developed, or subsidized by a local housing authority established under Division II of the Housing and Community Development Article.

(2) The service restrictions imposed under this subsection do not apply to central hot water.

(3) **[The] EXCEPT AS PROVIDED IN § 7-304.1 OF THIS SUBTITLE, THE** Commission may not authorize a gas company or electric company to service an occupancy unit or shopping center unit subject to this subsection unless the building or shopping center has individual metered service or submetering as provided under § 7-303 or § 7-304 of this subtitle for each individually leased or owned occupancy unit or shopping center unit.

(4) In accordance with its regulations, the Commission may authorize a gas company or electric company to provide service for central heating or cooling systems, or a combination of those systems, to an occupancy unit or shopping center unit subject to this subsection if the Commission is satisfied that the service will result in a substantial net saving of energy over the energy saving that would result from individual metering or submetering as provided under § 7-303 or § 7-304 of this subtitle.

(d) The owner, operator, or manager of a residential multiple occupancy building or shopping center subject to this section may not impose a utility cost on an occupancy unit or shopping center unit, except for charges that:

(1) the Commission authorizes the gas company or electric company to impose; and

(2) the gas company or electric company actually imposes on the owner, operator, or manager.

#### **7-304.1.**

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

~~(2) “MASTER, “MASTER METER” MEANS A METER USED TO MEASURE, FOR BILLING PURPOSES, THE TOTAL AMOUNT OF ELECTRICITY OR NATURAL GAS USED IN A BUILDING BY A HEATING, VENTILATION, AND AIR CONDITIONING SYSTEM, INCLUDING THE COMBINED USE FROM ALL INDIVIDUALLY LEASED OR OWNED UNITS AND ALL COMMON AREAS.~~

~~(3) “SHOPPING CENTER” HAS THE MEANING STATED IN § 7-303 OF THIS SUBTITLE.~~

(B) THE COMMISSION MAY AUTHORIZE THE USE OF A MASTER METER IN A RESIDENTIAL MULTIPLE OCCUPANCY BUILDING ~~OR SHOPPING CENTER~~ FOR HEATING, VENTILATION, AND AIR CONDITIONING SERVICES WITHOUT REQUIRING INDIVIDUAL METERING OR SUBMETERING FOR HEATING, VENTILATION, AND AIR CONDITIONING SERVICES AS PROVIDED UNDER § 7-303 OR § 7-304 OF THIS SUBTITLE IF:

(1) THE UTILITY BILL FOR HEATING, VENTILATION, AND AIR CONDITIONING SERVICES FOR EACH INDIVIDUALLY LEASED OR OWNED OCCUPANCY UNIT ~~OR SHOPPING CENTER UNIT~~ IS INCLUDED IN THE RENT ~~OR MONTHLY FEE OR ASSESSMENT~~ FOR THAT UNIT; ~~AND~~

(2) THE COMMISSION IS SATISFIED THAT THE USE OF THE MASTER METER FOR HEATING, VENTILATION, AND AIR CONDITIONING SERVICES WILL RESULT IN A NET SAVINGS OF ENERGY OVER THE ENERGY SAVINGS THAT WOULD RESULT FROM INDIVIDUAL METERING OR SUBMETERING FOR HEATING, VENTILATION, AND AIR CONDITIONING SERVICES; ~~AND~~

(3) EACH INDIVIDUALLY LEASED OR OWNED OCCUPANCY UNIT:

(I) HAS INDIVIDUAL METERED SERVICE FOR OTHER ENERGY SERVICES; AND

(II) DIRECTLY RECEIVES THE UTILITY BILL FOR THE OTHER ENERGY SERVICES.

(C) BEFORE AUTHORIZING THE USE OF A MASTER METER FOR HEATING, VENTILATION, AND AIR CONDITIONING SERVICES, THE COMMISSION MAY REVIEW THE PROPOSED ALLOCATION OF UTILITY HEATING, VENTILATION, AND AIR CONDITIONING SYSTEM EXPENSES AMONG INDIVIDUAL UNITS AND COMMON AREAS SERVED BY THE MASTER METER.

(D) IN ACCORDANCE WITH § 7-301 OF THIS SUBTITLE, AN ELECTRIC COMPANY OR A GAS COMPANY MAY INSPECT AND TEST A MASTER METER AUTHORIZED FOR USE BY THE COMMISSION UNDER THIS SECTION.

~~(E) THIS SECTION DOES NOT APPLY TO ELECTRICITY SUPPLIED IN THE SERVICE TERRITORY OF AN ELECTRIC COOPERATIVE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2010. It shall remain effective for a period of 3 years and, at the end of June 30, 2013, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 4, 2010.

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**Chapter 316**

**(Senate Bill 541)**

AN ACT concerning

**Natural Resources – Park Advisory Commission – Membership**

FOR the purpose of increasing the membership of the Park Advisory Commission in the Department of Natural Resources; repealing certain obsolete language; and generally relating to the Park Advisory Commission.

BY repealing and reenacting, with amendments,  
Article – Natural Resources  
Section 5–204  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

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

**Article – Natural Resources**

5–204.

- (a) (1) There is a Sustainable Forestry Council in the Department.
- (2) The purpose of the Council is to advise the Department on all matters related to:
- (i) Sustainable forestry management in the State;
  - (ii) The expenditure of funds from the Woodland Incentives Fund under § 5–307 of this title;
  - (iii) Existing regulatory and statutory policies that are perceived as economic barriers to a viable forest products industry;
  - (iv) New markets to enhance forest health, including renewable energy development through biomass energy, to offset fossil fuel consumption and reduce greenhouse gas emissions;

(v) Creative strategies to help privately owned forest lands better compete with real estate market values that are driving forest conversion and fragmentation;

(vi) The means to promote forest-based economies and processing capability that contribute to economic and employment growth; and

(vii) Assigning a nutrient efficiency benefit to forest stewardship plans and other forest conservation management plans that can be measurably tracked and reported by the number of forested acres covered by the plans.

(b) There is a Park Advisory Commission in the Department.

(c) (1) The Sustainable Forestry Council shall have 9 members.

(2) Members of the Council shall be appointed by the Governor, with the advice of the Secretary, to serve at the pleasure of the Governor.

(d) (1) [From and after July 1, 1988, the] **THE** Park Advisory Commission shall have [9] **12** members.

(2) Members of the Park Advisory Commission shall be appointed by the Governor, with the advice of the Secretary, to serve at the pleasure of the Governor.

[(e) Notwithstanding any other provisions of this section, a member of the Park Advisory Commission as of June 30, 1988, may serve the unexpired remainder of his term as a member of an advisory commission created by law.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 317**

**(House Bill 631)**

AN ACT concerning

**Natural Resources – Park Advisory Commission – Membership**

FOR the purpose of increasing the membership of the Park Advisory Commission in the Department of Natural Resources; repealing certain obsolete language; and generally relating to the Park Advisory Commission.

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 5–204

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

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

### **Article – Natural Resources**

5–204.

- (a) (1) There is a Sustainable Forestry Council in the Department.
- (2) The purpose of the Council is to advise the Department on all matters related to:
- (i) Sustainable forestry management in the State;
  - (ii) The expenditure of funds from the Woodland Incentives Fund under § 5–307 of this title;
  - (iii) Existing regulatory and statutory policies that are perceived as economic barriers to a viable forest products industry;
  - (iv) New markets to enhance forest health, including renewable energy development through biomass energy, to offset fossil fuel consumption and reduce greenhouse gas emissions;
  - (v) Creative strategies to help privately owned forest lands better compete with real estate market values that are driving forest conversion and fragmentation;
  - (vi) The means to promote forest-based economies and processing capability that contribute to economic and employment growth; and
  - (vii) Assigning a nutrient efficiency benefit to forest stewardship plans and other forest conservation management plans that can be measurably tracked and reported by the number of forested acres covered by the plans.
- (b) There is a Park Advisory Commission in the Department.

(c) (1) The Sustainable Forestry Council shall have 9 members.

(2) Members of the Council shall be appointed by the Governor, with the advice of the Secretary, to serve at the pleasure of the Governor.

(d) (1) [From and after July 1, 1988, the] **THE** Park Advisory Commission shall have [9] **12** members.

(2) Members of the Park Advisory Commission shall be appointed by the Governor, with the advice of the Secretary, to serve at the pleasure of the Governor.

[(e) Notwithstanding any other provisions of this section, a member of the Park Advisory Commission as of June 30, 1988, may serve the unexpired remainder of his term as a member of an advisory commission created by law.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 318

(Senate Bill 554)

AN ACT concerning

### **Rental Housing – Protection for Victims of Domestic Violence and Sexual Assault**

FOR the purpose of authorizing a tenant who is a victim of domestic violence or a victim of sexual assault to terminate a residential lease under certain circumstances; requiring a certain tenant to provide certain written notice to terminate a lease to the landlord; requiring a tenant who provides certain written notice to vacate the leased premises within a certain period of time; establishing a tenant's responsibility for certain rent if the tenant terminates a lease under this Act; providing that a landlord is entitled to certain legal remedies under certain circumstances; requiring the written notice provided under this Act to include certain information; ~~prohibiting a landlord from bringing an action for possession under certain circumstances; prohibiting a court from entering a judgment against a certain tenant~~ providing a rebuttable presumption in a certain civil action if the tenant provides certain evidence; authorizing a court to make a certain judgment in an action for possession under certain circumstances; authorizing a tenant to provide the landlord with

a request to change the locks on the leased premises under certain circumstances; requiring the request to change the locks to include certain information; requiring the landlord to change the locks ~~or authorize the tenant to change the locks~~ within a certain period of time after receiving the request; authorizing the tenant to have a certain person change the locks without the landlord's permission under certain circumstances; requiring the tenant to pay a certain fee within a certain period of time; ~~prohibiting certain discrimination in housing on the basis of a person's status as a victim of domestic violence or a victim of sexual assault~~; defining certain terms; and generally relating to protection for victims of domestic violence and sexual assault in rental housing.

BY adding to

Article – Real Property

Section 8-5A-01 through 8-5A-06 to be under the new subtitle “Subtitle 5A.  
Rental Housing – Victims of Domestic Violence and Sexual Assault”

Annotated Code of Maryland

(2003 Replacement Volume and 2009 Supplement)

~~BY repealing and reenacting, without amendments,~~

~~Article – State Government~~

~~Section 20-701(a)~~

~~Annotated Code of Maryland~~

~~(2009 Replacement Volume)~~

~~BY adding to~~

~~Article – State Government~~

~~Section 20-701(j) and (k)~~

~~Annotated Code of Maryland~~

~~(2009 Replacement Volume)~~

~~BY repealing and reenacting, with amendments,~~

~~Article – State Government~~

~~Section 20-705~~

~~Annotated Code of Maryland~~

~~(2009 Replacement Volume)~~

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

### **Article – Real Property**

#### **SUBTITLE 5A. RENTAL HOUSING – VICTIMS OF DOMESTIC VIOLENCE AND SEXUAL ASSAULT.**

**8-5A-01.**

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

(B) "LEGAL OCCUPANT" MEANS AN OCCUPANT WHO RESIDES ON THE PREMISES WITH THE ACTUAL KNOWLEDGE AND PERMISSION OF THE LANDLORD.

~~(B)~~ (C) "OFFENDER" MEANS A PERSON WHO COMMITS AN ACT OF DOMESTIC VIOLENCE OR COMMITS A SEXUAL ASSAULT OFFENSE.

(D) "PEACE ORDER" MEANS AN ENFORCEABLE FINAL PEACE ORDER.

(E) "PROTECTIVE ORDER" MEANS AN ENFORCEABLE FINAL PROTECTIVE ORDER.

~~(E)~~ (F) "VICTIM OF DOMESTIC VIOLENCE" MEANS A PERSON WHO IS:

(1) A VICTIM OF DOMESTIC ABUSE ~~UNDER TITLE 4, SUBTITLE 5,~~ AS DEFINED IN § 4-501 OF THE FAMILY LAW ARTICLE; OR AND

(2) A PERSON ELIGIBLE FOR RELIEF, AS DEFINED IN § 4-501 OF THE FAMILY LAW ARTICLE.

~~(E)~~ (G) "VICTIM OF SEXUAL ASSAULT" MEANS A PERSON WHO IS A VICTIM OF:

(1) A SEXUAL CRIME UNDER TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE;

(2) CHILD SEXUAL ABUSE UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE; OR

(3) SEXUAL ABUSE OF A VULNERABLE ADULT UNDER § 3-604 OF THE CRIMINAL LAW ARTICLE.

8-5A-02.

(A) SUBJECT TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, A TENANT MAY TERMINATE A RESIDENTIAL LEASE IF THE TENANT OR LEGAL OCCUPANT IS:

(1) A VICTIM OF DOMESTIC VIOLENCE; OR

(2) A VICTIM OF SEXUAL ASSAULT.

(B) ~~A~~ IF A TENANT WHO OR LEGAL OCCUPANT IS A VICTIM OF DOMESTIC VIOLENCE OR A VICTIM OF SEXUAL ASSAULT WHO HAS PROVIDED, THE TENANT MAY PROVIDE TO THE LANDLORD THE WRITTEN NOTICE REQUIRED UNDER § 8-5A-03 OR § 8-5A-04 OF THIS SUBTITLE BEFORE THE TENANT VACATES THE LEASED PREMISES AND, IF THE WRITTEN NOTICE IS PROVIDED, THE TENANT SHALL HAVE 30 DAYS TO VACATE THE LEASED PREMISES FROM THE DATE OF PROVIDING THE WRITTEN NOTICE.

(C) A TENANT WHO VACATES LEASED PREMISES UNDER THIS SECTION IS RESPONSIBLE FOR RENT ~~PRORATED BASED ON THE NUMBER OF DAYS THE TENANT OCCUPIES THE LEASED PREMISES AFTER~~ FOR THE 30 DAYS FOLLOWING THE TENANT PROVIDES PROVIDING NOTICE OF AN INTENT TO VACATE.

(D) IF A TENANT DOES NOT VACATE THE LEASED PREMISES WITHIN 30 DAYS OF PROVIDING TO THE LANDLORD THE WRITTEN NOTICE REQUIRED UNDER § 8-5A-03 OR § 8-5A-04 OF THIS SUBTITLE, THE LANDLORD IS, AT THE LANDLORD'S OPTION AND WITH WRITTEN NOTICE TO THE TENANT, ENTITLED TO ALL:

(1) ALL LEGAL REMEDIES AGAINST A TENANT HOLDING OVER AVAILABLE UNDER § 8-402 OF THIS TITLE; OR

(2) DEEM THE TENANT'S NOTICE OF AN INTENT TO VACATE TO HAVE BEEN RESCINDED AND THE TERMS OF THE ORIGINAL LEASE TO BE IN FULL FORCE AND EFFECT.

#### 8-5A-03.

(A) ~~A~~ IF A TENANT WHO OR LEGAL OCCUPANT IS A VICTIM OF DOMESTIC VIOLENCE, THE TENANT MAY TERMINATE A LEASE UNDER § 8-5A-02 OF THIS SUBTITLE IF THE TENANT PROVIDES THE LANDLORD WITH WRITTEN NOTICE BY FIRST-CLASS MAIL OR HAND DELIVERY OF AN INTENT TO VACATE THE PREMISES AND NOTICE OF THE TENANT'S OR LEGAL OCCUPANT'S STATUS AS A VICTIM OF DOMESTIC VIOLENCE.

(B) THE NOTICE PROVIDED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) ~~A~~ A COPY OF A PROTECTIVE ORDER ISSUED FOR THE BENEFIT OF THE TENANT OR LEGAL OCCUPANT UNDER § 4-506 OF THE FAMILY LAW ARTICLE;

~~(2) A MEDICAL RECORD OR AN AFFIDAVIT FROM A MEDICAL PROFESSIONAL REGARDING INJURIES SUSTAINED BY THE TENANT AS A RESULT OF DOMESTIC VIOLENCE; OR~~

~~(3) A POLICE REPORT REGARDING DOMESTIC VIOLENCE AGAINST THE TENANT.~~

#### 8-5A-04.

(A) ~~A~~ IF A TENANT WHO OR LEGAL OCCUPANT IS A VICTIM OF SEXUAL ASSAULT, THE TENANT MAY TERMINATE A RESIDENTIAL LEASE UNDER § 8-5A-02 OF THIS SUBTITLE IF THE TENANT PROVIDES THE LANDLORD WITH WRITTEN NOTICE BY FIRST-CLASS MAIL OR HAND DELIVERY OF AN INTENT TO VACATE THE LEASED PREMISES AND NOTICE OF, INCLUDING THE TENANT'S OR LEGAL OCCUPANT'S STATUS AS A VICTIM OF SEXUAL ASSAULT.

(B) THE NOTICE PROVIDED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) A COPY OF A PROTECTIVE ORDER ISSUED FOR THE BENEFIT OF THE TENANT OR LEGAL OCCUPANT UNDER § 4-506 OF THE FAMILY LAW ARTICLE; OR

(2) A COPY OF A PEACE ORDER ISSUED FOR THE BENEFIT OF THE TENANT OR LEGAL OCCUPANT FOR WHICH THE UNDERLYING ACT WAS SEXUAL ASSAULT UNDER § 3-1505 OF THE COURTS ARTICLE;

~~(3) A MEDICAL RECORD OR AN AFFIDAVIT FROM A MEDICAL PROFESSIONAL REGARDING INJURIES SUSTAINED BY THE TENANT AS A RESULT OF SEXUAL ASSAULT; OR~~

~~(4) A POLICE REPORT REGARDING SEXUAL ASSAULT AGAINST THE TENANT.~~

#### 8-5A-05.

(A) ~~A LANDLORD MAY NOT BRING~~ THIS SECTION APPLIES TO AN ACTION FOR POSSESSION OF LEASED PROPERTY UNDER § 8-402.1 OF THIS TITLE AGAINST A TENANT OR LEGAL OCCUPANT WHO IS A VICTIM OF DOMESTIC VIOLENCE OR A VICTIM OF SEXUAL ASSAULT BASED ON IN WHICH THE BASIS FOR THE ALLEGED BREACH IS AN ACT OR ACTS OF DOMESTIC VIOLENCE OR SEXUAL ASSAULT.

~~(B) (1) A COURT MAY NOT ENTER A JUDGMENT AGAINST A TENANT WHO IS A VICTIM OF DOMESTIC VIOLENCE OR A VICTIM OF SEXUAL ASSAULT IN AN ACTION FOR POSSESSION. A TENANT IS DEEMED TO HAVE RAISED A REBUTTABLE PRESUMPTION THAT THE ALLEGED BREACH OF THE LEASE DOES NOT WARRANT AN EVICTION IF THE TENANT PROVIDES TO THE COURT:~~

(I) A COPY OF A PROTECTIVE ORDER ISSUED FOR THE BENEFIT OF THE TENANT OR LEGAL OCCUPANT UNDER § 4-506 OF THE FAMILY LAW ARTICLE; OR

(II) A COPY OF A PEACE ORDER ISSUED FOR THE BENEFIT OF THE TENANT OR LEGAL OCCUPANT FOR WHICH THE UNDERLYING ACT WAS SEXUAL ASSAULT UNDER § 3-1505 OF THE COURTS ARTICLE.

(2) IF DOMESTIC VIOLENCE OR SEXUAL ASSAULT IS RAISED AS A DEFENSE IN AN ACTION FOR POSSESSION OF PROPERTY UNDER § 8-402.1 OF THIS TITLE, THE COURT, IN ITS DISCRETION, MAY ENTER A JUDGMENT IN FAVOR OF A TENANT WHO DOES NOT PROVIDE THE EVIDENCE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

~~(C) IF DOMESTIC VIOLENCE OR SEXUAL ASSAULT IS RAISED AS A DEFENSE IN AN ACTION FOR POSSESSION AGAINST A TENANT WHO IS A VICTIM OF DOMESTIC VIOLENCE OR A VICTIM OF SEXUAL ASSAULT AND THE OFFENDER INVOLVED WITH THE ACT OF DOMESTIC VIOLENCE OR SEXUAL ASSAULT IS OCCUPYING THE LEASED PREMISES WITH THE TENANT, THE COURT MAY ENTER A JUDGMENT TERMINATING THE OFFENDER'S RIGHT TO OCCUPY THE LEASED PREMISES BUT ALLOW THE VICTIM OF DOMESTIC VIOLENCE OR VICTIM OF SEXUAL ASSAULT AND ANY OTHER TENANTS TO CONTINUE TO OCCUPY THE PREMISES.~~

#### 8-5A-06.

(A) A PERSON WHO IS A VICTIM OF DOMESTIC VIOLENCE OR A VICTIM OF SEXUAL ASSAULT AND WHO IS A TENANT UNDER A RESIDENTIAL LEASE MAY PROVIDE TO THE LANDLORD A WRITTEN REQUEST TO CHANGE THE LOCKS OF THE LEASED PREMISES IF ~~THE TENANT REASONABLY BELIEVES THAT THERE IS AN IMMINENT THREAT OF DOMESTIC VIOLENCE OR SEXUAL ASSAULT AGAINST A MEMBER OF THE TENANT'S HOUSEHOLD~~ THE PROTECTIVE ORDER OR PEACE ORDER ISSUED FOR THE BENEFIT OF THE TENANT OR LEGAL OCCUPANT REQUIRES THE RESPONDENT TO REFRAIN FROM ENTERING OR TO VACATE THE RESIDENCE OF THE TENANT OR LEGAL OCCUPANT.

(B) THE WRITTEN REQUEST PROVIDED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) A COPY OF A PROTECTIVE ORDER ISSUED FOR THE BENEFIT OF THE TENANT OR LEGAL OCCUPANT UNDER § 4-506 OF THE FAMILY LAW ARTICLE; OR

(2) A COPY OF A PEACE ORDER ISSUED FOR THE BENEFIT OF THE TENANT OR LEGAL OCCUPANT FOR WHICH THE UNDERLYING ACT WAS SEXUAL ASSAULT UNDER § 3-1505 OF THE COURTS ARTICLE.

(C) (1) ~~WITHIN 24 HOURS OF RECEIVING A WRITTEN REQUEST UNDER SUBSECTION (A) OF THIS SECTION, THE~~ THE LANDLORD SHALL CHANGE THE LOCKS ON THE LEASED PREMISES OR SHALL PROVIDE PERMISSION FOR THE TENANT TO CHANGE THE LOCKS BY THE CLOSE OF THE NEXT BUSINESS DAY AFTER RECEIVING A WRITTEN REQUEST UNDER SUBSECTION (A) OF THIS SECTION.

(2) IF THE LANDLORD FAILS TO CHANGE THE LOCKS AS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE TENANT ~~MAY~~:

(I) MAY CHANGE HAVE THE LOCKS CHANGED BY A CERTIFIED LOCKSMITH ON THE LEASED PREMISES WITHOUT PERMISSION FROM THE LANDLORD; AND

(II) SHALL GIVE A DUPLICATE KEY TO THE LANDLORD OR THE LANDLORD'S AGENT BY THE CLOSE OF THE NEXT BUSINESS DAY AFTER THE LOCK CHANGE.

(D) IF A LANDLORD CHANGES THE LOCKS ON A TENANT'S LEASED PREMISES UNDER SUBSECTION (C) OF THIS SECTION, THE LANDLORD:

(1) ~~IMMEDIATELY SHALL~~ SHALL PROVIDE A COPY OF THE NEW KEY TO THE TENANT WHO MADE THE REQUEST FOR THE CHANGE OF LOCKS AT A MUTUALLY AGREED TIME NOT TO EXCEED 48 HOURS FOLLOWING THE LOCK CHANGE; AND

(2) ~~MAY NOT PROVIDE A COPY OF THE NEW KEY TO THE OFFENDER; AND~~

(3) ~~MAY CHARGE A FEE TO THE TENANT NOT EXCEEDING THE REASONABLE COST OF CHANGING A LOCK~~ THE LOCKS.

(E) (1) IF A LANDLORD CHARGES A FEE TO THE TENANT FOR CHANGING THE LOCKS ON A TENANT'S LEASED PREMISES UNDER SUBSECTION

(D) OF THIS SECTION, THE TENANT SHALL PAY THE FEE WITHIN 45 DAYS OF THE DATE THE LOCKS ARE CHANGED.

(2) IF A TENANT DOES NOT PAY A FEE AS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE LANDLORD MAY ~~WITHHOLD~~:

(I) CHARGE THE FEE AS ADDITIONAL RENT; OR

(II) WITHHOLD THE AMOUNT OF THE FEE FROM THE TENANT'S SECURITY DEPOSIT.

~~Article – State Government~~

~~20-701.~~

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

(j) ~~“STATUS AS A VICTIM OF DOMESTIC VIOLENCE” MEANS THE STATE OF BEING AN INDIVIDUAL WHO IS:~~

(1) ~~A VICTIM OF DOMESTIC ABUSE UNDER TITLE 4, SUBTITLE 5 OF THE FAMILY LAW ARTICLE; OR~~

(2) ~~A PERSON ELIGIBLE FOR RELIEF, AS DEFINED IN § 4-501 OF THE FAMILY LAW ARTICLE.~~

(k) ~~“STATUS AS A VICTIM OF SEXUAL ASSAULT” MEANS THE STATE OF BEING AN INDIVIDUAL WHO IS A VICTIM OF:~~

(1) ~~A SEXUAL CRIME UNDER TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE;~~

(2) ~~CHILD SEXUAL ABUSE UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE; OR~~

(3) ~~SEXUAL ABUSE OF A VULNERABLE ADULT UNDER § 3-604 OF THE CRIMINAL LAW ARTICLE.~~

~~20-705.~~

~~Except as provided in §§ 20-703 and 20-704 of this subtitle, a person may not:~~

(1) ~~refuse to sell or rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, disability, marital status, familial~~

~~status, sexual orientation, [or] national origin, STATUS AS A VICTIM OF DOMESTIC VIOLENCE, OR STATUS AS A VICTIM OF SEXUAL ASSAULT;~~

~~(2) discriminate against any person in the terms, conditions, or privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection with the sale or rental of a dwelling, because of race, color, religion, sex, disability, marital status, familial status, sexual orientation, [or] national origin, STATUS AS A VICTIM OF DOMESTIC VIOLENCE, OR STATUS AS A VICTIM OF SEXUAL ASSAULT;~~

~~(3) make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, disability, marital status, familial status, sexual orientation, [or] national origin, STATUS AS A VICTIM OF DOMESTIC VIOLENCE, OR STATUS AS A VICTIM OF SEXUAL ASSAULT, or an intention to make any preference, limitation, or discrimination;~~

~~(4) represent to any person, because of race, color, religion, sex, disability, marital status, familial status, sexual orientation, [or] national origin, STATUS AS A VICTIM OF DOMESTIC VIOLENCE, OR STATUS AS A VICTIM OF SEXUAL ASSAULT, that any dwelling is not available for inspection, sale, or rental when the dwelling is available; or~~

~~(5) for profit, induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person of a particular race, color, religion, sex, disability, marital status, familial status, sexual orientation, [or] national origin, STATUS AS A VICTIM OF DOMESTIC VIOLENCE, OR STATUS AS A VICTIM OF SEXUAL ASSAULT.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 319

(House Bill 1382)

AN ACT concerning

**Rental Housing – Protection for Victims of Domestic Violence and Sexual Assault**

FOR the purpose of authorizing a tenant who is a victim of domestic violence or a victim of sexual assault to terminate a residential lease under certain circumstances; requiring a certain tenant to provide certain written notice to terminate a lease to the landlord; requiring a tenant who provides certain written notice to vacate the leased premises within a certain period of time; establishing a tenant's responsibility for certain rent if the tenant terminates a lease under this Act; providing that a landlord is entitled to certain legal remedies under certain circumstances; requiring the written notice provided under this Act to include certain information; ~~prohibiting a landlord from bringing an action for possession under certain circumstances; prohibiting a court from entering a judgment against a certain tenant~~ providing a rebuttable presumption in a certain civil action if the tenant provides certain evidence; authorizing a court to make a certain judgment in an action for possession under certain circumstances; authorizing a tenant to provide the landlord with a request to change the locks on the leased premises under certain circumstances; requiring the request to change the locks to include certain information; requiring the landlord to change the locks ~~or authorize the tenant to change the locks~~ within a certain period of time after receiving the request; authorizing the tenant to have a certain person change the locks without the landlord's permission under certain circumstances; requiring the tenant to pay a certain fee within a certain period of time; ~~prohibiting certain discrimination in housing on the basis of a person's status as a victim of domestic violence or a victim of sexual assault~~; defining certain terms; and generally relating to protection for victims of domestic violence and sexual assault in rental housing.

BY adding to

Article – Real Property

Section 8–5A–01 through 8–5A–06 to be under the new subtitle “Subtitle 5A.  
Rental Housing – Victims of Domestic Violence and Sexual Assault”

Annotated Code of Maryland

(2003 Replacement Volume and 2009 Supplement)

~~BY repealing and reenacting, without amendments,~~

~~Article – State Government~~

~~Section 20–701(a)~~

~~Annotated Code of Maryland~~

~~(2009 Replacement Volume)~~

BY adding to

~~Article – State Government~~

~~Section 20–701(j) and (k)~~

~~Annotated Code of Maryland~~

~~(2009 Replacement Volume)~~

~~BY repealing and reenacting, with amendments,~~

~~Article – State Government~~

~~Section 20–705~~

~~Annotated Code of Maryland  
(2009 Replacement Volume)~~

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

**Article – Real Property**

**SUBTITLE 5A. RENTAL HOUSING – VICTIMS OF DOMESTIC VIOLENCE AND SEXUAL ASSAULT.**

**8-5A-01.**

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

**(B) “LEGAL OCCUPANT” MEANS AN OCCUPANT WHO RESIDES ON THE PREMISES WITH THE ACTUAL KNOWLEDGE AND PERMISSION OF THE LANDLORD.**

~~(B)~~ **(C) “OFFENDER” MEANS A PERSON WHO COMMITS AN ACT OF DOMESTIC VIOLENCE OR COMMITS A SEXUAL ASSAULT OFFENSE.**

**(D) “PEACE ORDER” MEANS AN ENFORCEABLE FINAL PEACE ORDER.**

**(E) “PROTECTIVE ORDER” MEANS AN ENFORCEABLE FINAL PROTECTIVE ORDER.**

~~(E)~~ **(F) “VICTIM OF DOMESTIC VIOLENCE” MEANS A PERSON WHO IS:**

**(1) A VICTIM OF DOMESTIC ABUSE ~~UNDER TITLE 4, SUBTITLE 5,~~ AS DEFINED IN § 4-501 OF THE FAMILY LAW ARTICLE; ~~OR~~ AND**

**(2) A PERSON ELIGIBLE FOR RELIEF, AS DEFINED IN § 4-501 OF THE FAMILY LAW ARTICLE.**

~~(E)~~ **(G) “VICTIM OF SEXUAL ASSAULT” MEANS A PERSON WHO IS A VICTIM OF:**

**(1) A SEXUAL CRIME UNDER TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE;**

**(2) CHILD SEXUAL ABUSE UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE; OR**

(3) **SEXUAL ABUSE OF A VULNERABLE ADULT UNDER § 3-604 OF THE CRIMINAL LAW ARTICLE.**

**8-5A-02.**

(A) **SUBJECT TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, A TENANT MAY TERMINATE A RESIDENTIAL LEASE IF THE TENANT OR LEGAL OCCUPANT IS:**

(1) **A VICTIM OF DOMESTIC VIOLENCE; OR**

(2) **A VICTIM OF SEXUAL ASSAULT.**

(B) **~~A~~ IF A TENANT ~~WHO~~ OR LEGAL OCCUPANT IS A VICTIM OF DOMESTIC VIOLENCE OR A VICTIM OF SEXUAL ASSAULT ~~WHO HAS PROVIDED,~~ THE TENANT MAY PROVIDE TO THE LANDLORD THE WRITTEN NOTICE REQUIRED UNDER § 8-5A-03 OR § 8-5A-04 ~~OF THIS SUBTITLE BEFORE THE TENANT VACATES THE LEASED PREMISES~~ AND, IF THE WRITTEN NOTICE IS PROVIDED, THE TENANT SHALL HAVE 30 DAYS TO VACATE THE LEASED PREMISES FROM THE DATE OF PROVIDING THE WRITTEN NOTICE.**

(C) **A TENANT WHO VACATES LEASED PREMISES UNDER THIS SECTION IS RESPONSIBLE FOR RENT ~~PRORATED BASED ON THE NUMBER OF DAYS THE TENANT OCCUPIES THE LEASED PREMISES AFTER~~ FOR THE 30 DAYS FOLLOWING THE TENANT ~~PROVIDES~~ PROVIDING NOTICE OF AN INTENT TO VACATE.**

(D) **IF A TENANT DOES NOT VACATE THE LEASED PREMISES WITHIN 30 DAYS OF PROVIDING TO THE LANDLORD THE WRITTEN NOTICE REQUIRED UNDER § 8-5A-03 OR § 8-5A-04 OF THIS SUBTITLE, THE LANDLORD IS, AT THE LANDLORD'S OPTION AND WITH WRITTEN NOTICE TO THE TENANT, ENTITLED TO ~~ALL:~~**

(1) **ALL LEGAL REMEDIES AGAINST A TENANT HOLDING OVER AVAILABLE UNDER § 8-402 OF THIS TITLE; OR**

(2) **DEEM THE TENANT'S NOTICE OF AN INTENT TO VACATE TO HAVE BEEN RESCINDED AND THE TERMS OF THE ORIGINAL LEASE TO BE IN FULL FORCE AND EFFECT.**

**8-5A-03.**

(A) **~~A~~ IF A TENANT ~~WHO~~ OR LEGAL OCCUPANT IS A VICTIM OF DOMESTIC VIOLENCE, THE TENANT MAY TERMINATE A LEASE UNDER § 8-5A-02 OF THIS SUBTITLE IF THE TENANT PROVIDES THE LANDLORD WITH WRITTEN**

NOTICE BY FIRST-CLASS MAIL OR HAND DELIVERY OF AN INTENT TO VACATE THE PREMISES AND NOTICE OF THE TENANT'S OR LEGAL OCCUPANT'S STATUS AS A VICTIM OF DOMESTIC VIOLENCE.

(B) THE NOTICE PROVIDED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

~~(1) A COPY OF A PROTECTIVE ORDER ISSUED FOR THE BENEFIT OF THE TENANT OR LEGAL OCCUPANT UNDER § 4-506 OF THE FAMILY LAW ARTICLE;~~

~~(2) A MEDICAL RECORD OR AN AFFIDAVIT FROM A MEDICAL PROFESSIONAL REGARDING INJURIES SUSTAINED BY THE TENANT AS A RESULT OF DOMESTIC VIOLENCE; OR~~

~~(3) A POLICE REPORT REGARDING DOMESTIC VIOLENCE AGAINST THE TENANT.~~

8-5A-04.

(A) ~~A~~ IF A TENANT ~~WHO~~ OR LEGAL OCCUPANT IS A VICTIM OF SEXUAL ASSAULT, THE TENANT MAY TERMINATE A RESIDENTIAL LEASE UNDER § 8-5A-02 OF THIS SUBTITLE IF THE TENANT PROVIDES THE LANDLORD WITH WRITTEN NOTICE BY FIRST-CLASS MAIL OR HAND DELIVERY OF AN INTENT TO VACATE THE LEASED PREMISES ~~AND NOTICE OF~~, INCLUDING THE TENANT'S OR LEGAL OCCUPANT'S STATUS AS A VICTIM OF SEXUAL ASSAULT.

(B) THE NOTICE PROVIDED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) A COPY OF A PROTECTIVE ORDER ISSUED FOR THE BENEFIT OF THE TENANT OR LEGAL OCCUPANT UNDER § 4-506 OF THE FAMILY LAW ARTICLE; OR

(2) A COPY OF A PEACE ORDER ISSUED FOR THE BENEFIT OF THE TENANT OR LEGAL OCCUPANT FOR WHICH THE UNDERLYING ACT WAS SEXUAL ASSAULT UNDER § 3-1505 OF THE COURTS ARTICLE;

~~(3) A MEDICAL RECORD OR AN AFFIDAVIT FROM A MEDICAL PROFESSIONAL REGARDING INJURIES SUSTAINED BY THE TENANT AS A RESULT OF SEXUAL ASSAULT; OR~~

~~(4) A POLICE REPORT REGARDING SEXUAL ASSAULT AGAINST THE TENANT.~~

## 8-5A-05.

(A) ~~A LANDLORD MAY NOT BRING~~ THIS SECTION APPLIES TO AN ACTION FOR POSSESSION OF LEASED PROPERTY UNDER § 8-402.1 OF THIS TITLE AGAINST A TENANT OR LEGAL OCCUPANT WHO IS A VICTIM OF DOMESTIC VIOLENCE OR A VICTIM OF SEXUAL ASSAULT BASED ON IN WHICH THE BASIS FOR THE ALLEGED BREACH IS AN ACT OR ACTS OF DOMESTIC VIOLENCE OR SEXUAL ASSAULT.

(B) (1) ~~A COURT MAY NOT ENTER A JUDGMENT AGAINST A TENANT WHO IS A VICTIM OF DOMESTIC VIOLENCE OR A VICTIM OF SEXUAL ASSAULT IN AN ACTION FOR POSSESSION~~ A TENANT IS DEEMED TO HAVE RAISED A REBUTTABLE PRESUMPTION THAT THE ALLEGED BREACH OF THE LEASE DOES NOT WARRANT AN EVICTION IF THE TENANT PROVIDES TO THE COURT:

(I) A COPY OF A PROTECTIVE ORDER ISSUED FOR THE BENEFIT OF THE TENANT OR LEGAL OCCUPANT UNDER § 4-506 OF THE FAMILY LAW ARTICLE; OR

(II) A COPY OF A PEACE ORDER ISSUED FOR THE BENEFIT OF THE TENANT OR LEGAL OCCUPANT FOR WHICH THE UNDERLYING ACT WAS SEXUAL ASSAULT UNDER § 3-1505 OF THE COURTS ARTICLE.

(2) IF DOMESTIC VIOLENCE OR SEXUAL ASSAULT IS RAISED AS A DEFENSE IN AN ACTION FOR POSSESSION OF PROPERTY UNDER § 8-402.1 OF THIS TITLE, THE COURT, IN ITS DISCRETION, MAY ENTER A JUDGMENT IN FAVOR OF A TENANT WHO DOES NOT PROVIDE THE EVIDENCE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

~~(C) IF DOMESTIC VIOLENCE OR SEXUAL ASSAULT IS RAISED AS A DEFENSE IN AN ACTION FOR POSSESSION AGAINST A TENANT WHO IS A VICTIM OF DOMESTIC VIOLENCE OR A VICTIM OF SEXUAL ASSAULT AND THE OFFENDER INVOLVED WITH THE ACT OF DOMESTIC VIOLENCE OR SEXUAL ASSAULT IS OCCUPYING THE LEASED PREMISES WITH THE TENANT, THE COURT MAY ENTER A JUDGMENT TERMINATING THE OFFENDER'S RIGHT TO OCCUPY THE LEASED PREMISES BUT ALLOW THE VICTIM OF DOMESTIC VIOLENCE OR VICTIM OF SEXUAL ASSAULT AND ANY OTHER TENANTS TO CONTINUE TO OCCUPY THE PREMISES.~~

## 8-5A-06.

(A) A PERSON WHO IS A VICTIM OF DOMESTIC VIOLENCE OR A VICTIM OF SEXUAL ASSAULT AND WHO IS A TENANT UNDER A RESIDENTIAL LEASE MAY

PROVIDE TO THE LANDLORD A WRITTEN REQUEST TO CHANGE THE LOCKS OF THE LEASED PREMISES IF ~~THE TENANT REASONABLY BELIEVES THAT THERE IS AN IMMINENT THREAT OF DOMESTIC VIOLENCE OR SEXUAL ASSAULT AGAINST A MEMBER OF THE TENANT'S HOUSEHOLD~~ THE PROTECTIVE ORDER OR PEACE ORDER ISSUED FOR THE BENEFIT OF THE TENANT OR LEGAL OCCUPANT REQUIRES THE RESPONDENT TO REFRAIN FROM ENTERING OR TO VACATE THE RESIDENCE OF THE TENANT OR LEGAL OCCUPANT.

(B) THE WRITTEN REQUEST PROVIDED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) A COPY OF A PROTECTIVE ORDER ISSUED FOR THE BENEFIT OF THE TENANT OR LEGAL OCCUPANT UNDER § 4-506 OF THE FAMILY LAW ARTICLE; OR

(2) A COPY OF A PEACE ORDER ISSUED FOR THE BENEFIT OF THE TENANT OR LEGAL OCCUPANT FOR WHICH THE UNDERLYING ACT WAS SEXUAL ASSAULT UNDER § 3-1505 OF THE COURTS ARTICLE.

(C) (1) ~~WITHIN 24 HOURS OF RECEIVING A WRITTEN REQUEST UNDER SUBSECTION (A) OF THIS SECTION, THE~~ THE LANDLORD SHALL CHANGE THE LOCKS ON THE LEASED PREMISES OR SHALL PROVIDE PERMISSION FOR THE TENANT TO CHANGE THE LOCKS BY THE CLOSE OF THE NEXT BUSINESS DAY AFTER RECEIVING A WRITTEN REQUEST UNDER SUBSECTION (A) OF THIS SECTION.

(2) IF THE LANDLORD FAILS TO CHANGE THE LOCKS AS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE TENANT ~~MAY~~:

(I) MAY CHANGE HAVE THE LOCKS CHANGED BY A CERTIFIED LOCKSMITH ON THE LEASED PREMISES WITHOUT PERMISSION FROM THE LANDLORD; AND

(II) SHALL GIVE A DUPLICATE KEY TO THE LANDLORD OR THE LANDLORD'S AGENT BY THE CLOSE OF THE NEXT BUSINESS DAY AFTER THE LOCK CHANGE.

(D) IF A LANDLORD CHANGES THE LOCKS ON A TENANT'S LEASED PREMISES UNDER SUBSECTION (C) OF THIS SECTION, THE LANDLORD:

(1) ~~IMMEDIATELY SHALL~~ SHALL PROVIDE A COPY OF THE NEW KEY TO THE TENANT WHO MADE THE REQUEST FOR THE CHANGE OF LOCKS AT A MUTUALLY AGREED TIME NOT TO EXCEED 48 HOURS FOLLOWING THE LOCK CHANGE; AND

~~(2) MAY NOT PROVIDE A COPY OF THE NEW KEY TO THE OFFENDER; AND~~

~~(3) MAY CHARGE A FEE TO THE TENANT NOT EXCEEDING THE REASONABLE COST OF CHANGING A LOCK~~ THE LOCKS.

(E) (1) IF A LANDLORD CHARGES A FEE TO THE TENANT FOR CHANGING THE LOCKS ON A TENANT'S LEASED PREMISES UNDER SUBSECTION (D) OF THIS SECTION, THE TENANT SHALL PAY THE FEE WITHIN 45 DAYS OF THE DATE THE LOCKS ARE CHANGED.

(2) IF A TENANT DOES NOT PAY A FEE AS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE LANDLORD MAY ~~WITHHOLD:~~

(I) CHARGE THE FEE AS ADDITIONAL RENT; OR

(II) WITHHOLD THE AMOUNT OF THE FEE FROM THE TENANT'S SECURITY DEPOSIT.

~~Article – State Government~~

~~20-701.~~

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

~~(J) "STATUS AS A VICTIM OF DOMESTIC VIOLENCE" MEANS THE STATE OF BEING AN INDIVIDUAL WHO IS:~~

~~(1) A VICTIM OF DOMESTIC ABUSE UNDER TITLE 4, SUBTITLE 5 OF THE FAMILY LAW ARTICLE; OR~~

~~(2) A PERSON ELIGIBLE FOR RELIEF, AS DEFINED IN § 4-501 OF THE FAMILY LAW ARTICLE.~~

~~(K) "STATUS AS A VICTIM OF SEXUAL ASSAULT" MEANS THE STATE OF BEING AN INDIVIDUAL WHO IS A VICTIM OF:~~

~~(1) A SEXUAL CRIME UNDER TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE;~~

~~(2) CHILD SEXUAL ABUSE UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE; OR~~

~~(3) SEXUAL ABUSE OF A VULNERABLE ADULT UNDER § 3-604 OF THE CRIMINAL LAW ARTICLE.~~

~~20-705.~~

~~Except as provided in §§ 20-703 and 20-704 of this subtitle, a person may not:~~

~~(1) refuse to sell or rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, disability, marital status, familial status, sexual orientation, [or] national origin, STATUS AS A VICTIM OF DOMESTIC VIOLENCE, OR STATUS AS A VICTIM OF SEXUAL ASSAULT;~~

~~(2) discriminate against any person in the terms, conditions, or privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection with the sale or rental of a dwelling, because of race, color, religion, sex, disability, marital status, familial status, sexual orientation, [or] national origin, STATUS AS A VICTIM OF DOMESTIC VIOLENCE, OR STATUS AS A VICTIM OF SEXUAL ASSAULT;~~

~~(3) make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, disability, marital status, familial status, sexual orientation, [or] national origin, STATUS AS A VICTIM OF DOMESTIC VIOLENCE, OR STATUS AS A VICTIM OF SEXUAL ASSAULT, or an intention to make any preference, limitation, or discrimination;~~

~~(4) represent to any person, because of race, color, religion, sex, disability, marital status, familial status, sexual orientation, [or] national origin, STATUS AS A VICTIM OF DOMESTIC VIOLENCE, OR STATUS AS A VICTIM OF SEXUAL ASSAULT, that any dwelling is not available for inspection, sale, or rental when the dwelling is available; or~~

~~(5) for profit, induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person of a particular race, color, religion, sex, disability, marital status, familial status, sexual orientation, [or] national origin, STATUS AS A VICTIM OF DOMESTIC VIOLENCE, OR STATUS AS A VICTIM OF SEXUAL ASSAULT.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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**Chapter 320****(Senate Bill 556)**

AN ACT concerning

**Environment – Decabrominated Diphenyl Ether – Prohibitions**

FOR the purpose of prohibiting, on or after certain dates, the manufacturing, ~~processing~~ *leasing, selling,* or distributing of certain products that contain decabrominated diphenyl ether; providing that this Act does not prohibit certain retailers from selling, recycling, or disposing of certain products that contain decabrominated diphenyl ether under certain circumstances; *providing that this Act does not prohibit certain persons from recycling certain products that contain decabrominated diphenyl ether; providing that this Act does not prohibit a certain person from selling, leasing, recycling, or disposing of certain products that contain recycled decabrominated diphenyl ether; providing that this Act does not prohibit certain activities involving a product that contains decabrominated diphenyl ether that occur at a certain time;* providing that this Act does not prohibit a person from transporting or storing certain products that contain decabrominated diphenyl ether under certain circumstances; defining ~~a~~ certain ~~term~~ terms; *providing for the application of this Act;* and generally relating to the use of decabrominated diphenyl ether.

BY repealing and reenacting, with amendments,  
Article – Environment  
Section 6–1201  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 Supplement)

BY adding to  
Article – Environment  
Section 6–1202.1  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 Supplement)

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

**Article – Environment**

6–1201.

- (a) In this subtitle the following words have the meanings indicated.
- (b) **“DECABDE” MEANS DECABROMINATED DIPHENYL ETHER.**

[b] (C) "OctaBDE" means octabrominated diphenyl ether.

[(c)] (D) "PentaBDE" means pentabrominated diphenyl ether.

6-1202.1.

(A) (1) IN THIS SECTION, "TRANSPORTATION EQUIPMENT", "MILITARY EQUIPMENT", AND "COMPONENTS OF TRANSPORTATION OR MILITARY EQUIPMENT" DO NOT INCLUDE ~~PLASTIC~~ SHIPPING PALLETS USED TO TRANSPORT UNPACKAGED FRUITS AND VEGETABLES.

(2) THIS SECTION DOES NOT APPLY TO:

(I) ORIGINAL EQUIPMENT MANUFACTURER REPLACEMENT SERVICE PARTS OR OTHER PRODUCTS MANUFACTURED BEFORE JANUARY 1, 2011, IF THE PART OR PRODUCTS WERE MANUFACTURED IN COMPLIANCE WITH APPLICABLE FEDERAL, STATE, AND LOCAL LAWS; AND

(II) 1. A VEHICLE, AS DEFINED IN § 11-176 OF THE TRANSPORTATION ARTICLE; OR

2. A PRODUCT, PART, OR REPLACEMENT PART FOR USE IN A VEHICLE.

~~(A)~~ (B) (1) BEGINNING ON DECEMBER 31, 2010, A PERSON MAY NOT MANUFACTURE, LEASE, SELL, OR DISTRIBUTE FOR SALE OR LEASE IN THE STATE ANY OF THE FOLLOWING PRODUCTS THAT CONTAIN DECABDE:

(I) MATTRESSES;

(II) UPHOLSTERED FURNITURE DESIGNED FOR RESIDENTIAL USE; AND

(III) ELECTRICAL OR ELECTRONIC EQUIPMENT.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, BEGINNING ON DECEMBER 31, 2012, A PERSON MAY NOT MANUFACTURE, LEASE, SELL, OR DISTRIBUTE FOR SALE OR LEASE IN THE STATE ANY PRODUCT THAT CONTAINS DECABDE.

(3) PARAGRAPH (2) OF THIS SUBSECTION DOES NOT APPLY TO:

(I) TRANSPORTATION EQUIPMENT;

(II) MILITARY EQUIPMENT; OR

(III) COMPONENTS OF TRANSPORTATION OR MILITARY EQUIPMENT.

~~(B)~~ (C) ON OR AFTER DECEMBER 31, 2013, A PERSON MAY NOT MANUFACTURE, LEASE, SELL, OR DISTRIBUTE FOR SALE OR LEASE IN THE STATE THE FOLLOWING PRODUCTS THAT CONTAIN DECABDE:

(1) TRANSPORTATION EQUIPMENT;

(2) MILITARY EQUIPMENT; OR

(3) COMPONENTS OF TRANSPORTATION OR MILITARY EQUIPMENT.

~~(C)~~ (D) THIS SECTION DOES NOT PROHIBIT:

(1) A RETAILER THAT IS IN POSSESSION OF A PRODUCT PROHIBITED FOR MANUFACTURE, LEASE, SALE, OR DISTRIBUTION FOR SALE OR LEASE UNDER SUBSECTIONS ~~(A) AND (B)~~ (B) AND (C) OF THIS SECTION ~~ON OR AFTER DECEMBER 31, 2013,~~ FROM SELLING, RECYCLING, OR OTHERWISE DISPOSING OF ~~THE REMAINING INVENTORY OF THE PRODUCT; OR~~ A PRODUCT THAT IS IN THE RETAILER'S OR LESSOR'S INVENTORY ON OR AFTER THE DATE THAT THE PROHIBITION TAKES EFFECT;

(2) A PERSON FROM RECYCLING A PRODUCT THAT CONTAINS DECABDE;

(3) A PERSON FROM SELLING, LEASING, RECYCLING, OR OTHERWISE DISPOSING OF A PRODUCT THAT CONTAINS RECYCLED DECABDE;

(4) ANY ACTIVITY INVOLVING A PRODUCT THAT CONTAINS DECABDE THAT OCCURS SUBSEQUENT TO FIRST SALE AT RETAIL; OR

~~(2)~~ (5) A PERSON FROM TRANSPORTING OR STORING A PRODUCT PROHIBITED UNDER SUBSECTIONS ~~(A) AND (B)~~ (B) AND (C) OF THIS SECTION FOR LATER DISTRIBUTION OUTSIDE THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

## Chapter 321

### (Senate Bill 557)

AN ACT concerning

#### **Education – Alternate Maryland School Assessment – Review ~~and Revision~~**

FOR the purpose of requiring the State Department of Education to review ~~and revise~~ the Alternate Maryland School Assessment (ALT–MSA) on or before a certain date; requiring the Department to survey certain teachers regarding satisfaction, or lack thereof, of the ALT–MSA, solicit certain recommendations, and consider certain courses of action as part of a certain review; requiring the Department to report to the Governor and to certain legislative committees regarding a certain review; and generally relating to the review ~~and revision~~ of the ALT–MSA.

#### Preamble

WHEREAS, The federal No Child Left Behind Act requires all students to be assessed; and

WHEREAS, The assessment of students should be a tool used as part of instruction; and

WHEREAS, ~~Students~~ Some students with severe disabilities may need functional and life skills instruction as well as academic instruction and assessments; and

WHEREAS, Students with severe disabilities also receive an Individualized Education Program (IEP); and

WHEREAS, Assessments should not be so time–consuming as to displace ongoing instructional needs; and

WHEREAS, Special education teachers are spending an inordinate amount of their instructional hours creating, preparing, and administering the many aspects of the Alternate Maryland School Assessment (ALT–MSA), including selecting mastery objectives for each student, developing the artifacts to accomplish the mastery objective, and creating sample worksheets and data sheets to document these actions; and

WHEREAS, The ALT–MSA lends itself to great subjectivity, given the nature of the administration of the assessment and the flexibility provided for scoring the assessment; and

WHEREAS, The scoring of the ALT–MSA lends itself to great subjectivity; now, therefore,

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

(a) On or before July 1, 2011, the State Department of Education shall review ~~and revise~~ the Alternate Maryland School Assessment (ALT–MSA) with the goal of reducing the time required to administer the ALT–MSA.

(b) As part of the review required under subsection (a) of this section, the Department shall:

(1) (i) Survey all teachers of severely disabled students and students who are likely to be impacted by the ALT–MSA regarding satisfaction, or lack thereof, with the ALT–MSA; and

(ii) Solicit recommendations for improvement to the ALT–MSA;  
and

(2) ~~consider~~ Consider:

~~(1)~~ (i) Providing greater guidance and taking primary responsibility for the creation of the ALT–MSA while allowing modification to be effectuated by the special education instructor;

~~(2)~~ (ii) Reducing the number of mastery objectives that are currently required for each student in each subject; and

~~(3)~~ (iii) Creating State–approved artifacts for each mastery objective, including tasks, products, and actions; and

~~(4) For the most severely disabled students, incorporating a living skills based assessment into the existing academic based assessment.~~

SECTION 2. AND BE IT FURTHER ENACTED, That on or before October 1, 2011, the State Department of Education shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the House Committee on Ways and Means and the Senate Education, Health, and Environmental Affairs Committee regarding the review conducted under Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

**Approved by the Governor, May 4, 2010.**

**Chapter 322****(Senate Bill 562)**

AN ACT concerning

**Real Property – Mortgages and Deeds of Trust – Authority to Exercise a Power of Sale**

FOR the purpose of providing that failure to name any trustee in a deed of trust does not have any effect on an instrument under certain circumstances; clarifying that a mortgage or deed of trust may authorize the sale of property or declare a borrower's assent to the passing of a decree for the sale of the property under certain circumstances; clarifying that a power of sale or assent to decree authorized in a mortgage or deed of trust may be exercised only by an individual; providing that the individual selling the property under a power of sale need not be named in the mortgage or deed of trust; providing that an error or omission in a mortgage or deed of trust concerning the designation of the trustee or individual authorized to exercise a power of sale does not invalidate the instrument or the ability of the mortgagee or beneficiary of the deed of trust to appoint an individual to exercise the power of sale; authorizing the holder of a mortgage or deed of trust to make ~~in any foreclosure proceeding a substitution~~ appointments or substitutions of the a trustee or an individual authorized to exercise a power of sale under certain circumstances; defining a certain term; providing for the application of this Act; and generally relating to the authority to exercise a power of sale in mortgages and deeds of trust.

BY repealing and reenacting, with amendments,  
Article – Real Property  
Section ~~4–109~~ and 7–105  
Annotated Code of Maryland  
(2003 Replacement Volume and 2009 Supplement)

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

**Article – Real Property**

4–109.

(a) If an instrument was recorded before January 1, 1973, any failure of the instrument to comply with the formal requisites listed in this section has no effect, unless the defect was challenged in a judicial proceeding commenced by July 1, 1973.

(b) If an instrument is recorded on or after January 1, 1973, whether or not the instrument is executed on or after that date, any failure to comply with the formal requisites listed in this section has no effect unless it is challenged in a judicial proceeding commenced within six months after it is recorded.

(c) For the purposes of this section, the failures in the formal requisites of an instrument are:

(1) A defective acknowledgment;

(2) A failure to attach any clerk's certificate;

(3) An omission of a notary seal or other seal;

(4) A lack of or improper acknowledgment or affidavit of consideration, agency, or disbursement; [or]

(5) An omission of an attestation; OR

(6) A FAILURE TO NAME ANY TRUSTEE IN A DEED OF TRUST.

7-105.

**(a) IN THIS SECTION, "INDIVIDUAL" MEANS A NATURAL PERSON.**

**(B) (1) A [provision may be inserted in a] mortgage or deed of trust [authorizing any natural person named in the instrument, including the secured party, to sell] MAY AUTHORIZE THE SALE OF the property or [declaring] DECLARE the borrower's assent to the passing of a decree for the sale of the property, on default in a condition on which the mortgage or deed of trust provides that a sale may be made.**

**(2) A POWER OF SALE OR ASSENT TO DECREE AUTHORIZED IN A MORTGAGE OR DEED OF TRUST MAY BE EXERCISED ONLY BY AN INDIVIDUAL.**

**(3) THE INDIVIDUAL SELLING THE PROPERTY UNDER A POWER OF SALE NEED NOT BE NAMED IN THE MORTGAGE OR DEED OF TRUST.**

**~~(3)~~ (4) AN ERROR OR OMISSION IN A MORTGAGE OR DEED OF TRUST CONCERNING THE DESIGNATION OF THE TRUSTEE OR THE INDIVIDUAL AUTHORIZED TO EXERCISE A POWER OF SALE DOES NOT INVALIDATE THE INSTRUMENT OR THE ABILITY OF THE MORTGAGEE OR BENEFICIARY OF THE DEED OF TRUST TO APPOINT AN INDIVIDUAL TO EXERCISE THE POWER OF SALE.**

~~(4)~~ (5) IF A MORTGAGE OR DEED OF TRUST ALLOWS FOR THE APPOINTMENT OR SUBSTITUTION OF ~~THE~~ A TRUSTEE OR AN INDIVIDUAL AUTHORIZED TO EXERCISE A POWER OF SALE, THE HOLDER OF THE MORTGAGE OR DEED OF TRUST MAY MAKE ~~A SUBSTITUTION IN ANY FORECLOSURE PROCEEDING~~ THE APPOINTMENTS OR SUBSTITUTIONS FROM TIME TO TIME.

[b] (C) A sale made pursuant to this section, §§ 7–105.1 through 7–105.8 of this subtitle, or the Maryland Rules, after final ratification by the court and grant of the property to the purchaser on payment of the purchase money, has the same effect as if the sale and grant were made under decree between the proper parties in relation to the mortgage or deed of trust and in the usual course of the court, and operates to pass all the title which the borrower had in the property at the time of the recording of the mortgage or deed of trust.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect any mortgage or deed of trust on record or recorded on or after June 1, 2010.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 323

(House Bill 633)

AN ACT concerning

### Real Property – Mortgages and Deeds of Trust – Authority to Exercise a Power of Sale

FOR the purpose of providing that failure to name any trustee in a deed of trust does not have any effect on an instrument under certain circumstances; clarifying that a mortgage or deed of trust may authorize the sale of property or declare a borrower's assent to the passing of a decree for the sale of the property under certain circumstances; clarifying that a power of sale or assent to decree authorized in a mortgage or deed of trust may be exercised only by an individual; providing that the individual selling the property under a power of sale need not be named in the mortgage or deed of trust; providing that an error or omission in a mortgage or deed of trust concerning the designation of the trustee or individual authorized to exercise a power of sale does not invalidate the instrument or the ability of the mortgagee or beneficiary of the deed of trust to appoint an individual to exercise the power of sale; authorizing the holder of

a mortgage or deed of trust to make ~~in any foreclosure proceeding a substitution~~ appointments or substitutions of the a trustee or an individual authorized to exercise a power of sale under certain circumstances; defining a certain term; providing for the application of this Act; and generally relating to the authority to exercise a power of sale in mortgages and deeds of trust.

BY repealing and reenacting, with amendments,

Article – Real Property

Section ~~4–109 and~~ 7–105

Annotated Code of Maryland

(2003 Replacement Volume and 2009 Supplement)

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

### Article – Real Property

#### 4–109.

(a) If an instrument was recorded before January 1, 1973, any failure of the instrument to comply with the formal requisites listed in this section has no effect, unless the defect was challenged in a judicial proceeding commenced by July 1, 1973.

(b) If an instrument is recorded on or after January 1, 1973, whether or not the instrument is executed on or after that date, any failure to comply with the formal requisites listed in this section has no effect unless it is challenged in a judicial proceeding commenced within six months after it is recorded.

(c) For the purposes of this section, the failures in the formal requisites of an instrument are:

(1) A defective acknowledgment;

(2) A failure to attach any clerk’s certificate;

(3) An omission of a notary seal or other seal;

(4) A lack of or improper acknowledgment or affidavit of consideration, agency, or disbursement; [or]

(5) An omission of an attestation; OR

(6) A FAILURE TO NAME ANY TRUSTEE IN A DEED OF TRUST.

#### 7–105.

(a) **IN THIS SECTION, “INDIVIDUAL” MEANS A NATURAL PERSON.**

(B) (1) A [provision may be inserted in a] mortgage or deed of trust [authorizing any natural person named in the instrument, including the secured party, to sell] **MAY AUTHORIZE THE SALE OF** the property or [declaring] **DECLARE** the borrower's assent to the passing of a decree for the sale of the property, on default in a condition on which the mortgage or deed of trust provides that a sale may be made.

(2) **A POWER OF SALE OR ASSENT TO DECREE AUTHORIZED IN A MORTGAGE OR DEED OF TRUST MAY BE EXERCISED ONLY BY AN INDIVIDUAL.**

(3) **THE INDIVIDUAL SELLING THE PROPERTY UNDER A POWER OF SALE NEED NOT BE NAMED IN THE MORTGAGE OR DEED OF TRUST.**

~~(3)~~ (4) **AN ERROR OR OMISSION IN A MORTGAGE OR DEED OF TRUST CONCERNING THE DESIGNATION OF THE TRUSTEE OR THE INDIVIDUAL AUTHORIZED TO EXERCISE A POWER OF SALE DOES NOT INVALIDATE THE INSTRUMENT OR THE ABILITY OF THE MORTGAGEE OR BENEFICIARY OF THE DEED OF TRUST TO APPOINT AN INDIVIDUAL TO EXERCISE THE POWER OF SALE.**

~~(4)~~ (5) **IF A MORTGAGE OR DEED OF TRUST ALLOWS FOR THE APPOINTMENT OR SUBSTITUTION OF ~~THE~~ A TRUSTEE OR AN INDIVIDUAL AUTHORIZED TO EXERCISE A POWER OF SALE, THE HOLDER OF THE MORTGAGE OR DEED OF TRUST MAY MAKE A SUBSTITUTION IN ANY FORECLOSURE PROCEEDING THE APPOINTMENTS OR SUBSTITUTIONS FROM TIME TO TIME.**

(b) (C) A sale made pursuant to this section, §§ 7-105.1 through 7-105.8 of this subtitle, or the Maryland Rules, after final ratification by the court and grant of the property to the purchaser on payment of the purchase money, has the same effect as if the sale and grant were made under decree between the proper parties in relation to the mortgage or deed of trust and in the usual course of the court, and operates to pass all the title which the borrower had in the property at the time of the recording of the mortgage or deed of trust.

**SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect any mortgage or deed of trust on record or recorded on or after June 1, 2010.**

**SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2010.**

**Approved by the Governor, May 4, 2010.**

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**Chapter 324****(Senate Bill 590)**

AN ACT concerning

**Fairness in Negotiations Act**

FOR the purpose of establishing as an independent unit of State government a Public School Labor Relations Board to assume certain duties previously held by the State Board of Education; requiring the Public School Labor Relations Board to hear certain controversies and disputes; establishing that certain decisions by the Public School Labor Relations Board are final; requiring the Public School Labor Relations Board to adopt certain rules and regulations related to the designation of an exclusive representative; requiring the Public School Labor Relations Board to supervise certain elections concerning employee representation; requiring a public school employer and an employee organization to negotiate in a certain manner under certain circumstances; including procedures regarding employee transfers and assignments among the matters a public school employer must meet and negotiate with a certain employee organization on request; establishing certain processes and requirements for the resolution of disputes over the negotiability of certain topics; authorizing the Public School Labor Relations Board to adopt certain regulations, guidelines, and policies; repealing certain provisions of law regarding the resolution of certain impasses in negotiations; requiring the Public School Labor Relations Board to facilitate the beginning of mediation of certain disputes within a certain period of time and in a certain manner; establishing a certain process for the mediation of certain disputes; requiring a mediator to conclude certain mediations within a certain period of time; requiring a public school employer and employee organization to share certain dispute resolution costs equally; establishing certain processes for arbitration of certain disputes left unresolved by mediation; requiring the Public School Labor Relations Board to facilitate certain arbitration processes within a certain period of time and in a certain manner; requiring the Public School Labor Relations Board to issue a certain award at the end of arbitration; subjecting certain negotiated provisions or decisions to certain provisions of law concerning the fiscal relationship between public school employers and certain governing bodies; requiring public school employers to renegotiate certain agreements with employee organizations under certain circumstances in a certain manner; specifying the manner of appointment, membership, duties, and responsibilities of the Public School Labor Relations Board; providing for the staffing of the Public School Labor Relations Board; providing for the staggering of terms of the members of the Public School Labor Relations Board; requiring the Public School Labor Relations Board to decide certain controversies and disputes involving public school employers and employee organizations; authorizing a member of the Public School Labor Relations Board to petition a circuit court to seek enforcement of an order of the Public School Labor Relations Board;

providing that a certain hearing and determination under this Act is a contested case; establishing the significance of certain prior orders, actions, and opinions of the State Board of Education in deciding certain matters arising after the enactment of this Act; providing for the application and construction of this Act; requiring the Public School Labor Relations Board to report to the General Assembly on or before a certain date; providing for the termination of this Act; defining certain terms; making stylistic changes; and generally relating to public school education, collective bargaining, and dispute resolution.

BY repealing and reenacting, with amendments,

Article – Education

Section 2–205(e), 6–401, 6–405(f), 6–408, 6–501, 6–506(f), 6–510, and 6–511

Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

BY adding to

Article – Education

Section 6–408.1; and 6–801 through 6–807 to be under the new subtitle  
“Subtitle 8. Public School Labor Relations Board”

Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions

Section 3–204

Annotated Code of Maryland

(2009 Replacement Volume and 2009 Supplement)

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

### **Article – Education**

2–205.

(e) (1) Without charge and with the advice of the Attorney General, the State Board shall explain the true intent and meaning of the provisions of:

(i) This article that are within its jurisdiction; and

(ii) The bylaws, rules, and regulations adopted by the Board.

(2) **[The] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION AND IN TITLE 6, SUBTITLES 4 AND 5 OF THIS ARTICLE, THE Board shall decide all controversies and disputes under these provisions.**

(3) The decision of the Board is final.

**(4) (I) THE PUBLIC SCHOOL LABOR RELATIONS BOARD SHALL DECIDE ANY CONTROVERSY OR DISPUTE ARISING UNDER TITLE 6, SUBTITLE 4 OR SUBTITLE 5 OF THIS ARTICLE.**

**(II) A DECISION OF THE PUBLIC SCHOOL LABOR RELATIONS BOARD IS FINAL.**

6-401.

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

(b) **“BOARD” MEANS THE PUBLIC SCHOOL LABOR RELATIONS BOARD ESTABLISHED UNDER SUBTITLE 8 OF THIS TITLE.**

(c) “Employee organization” means an organization that:

(1) Includes certificated employees of a public school employer or individuals of equivalent status in Baltimore City; and

(2) Has as one of its main purposes the representation of the employees in their relations with that public school employer.

**[(c)] (D)** (1) “Home and hospital teacher” means a teacher employed by a public school employer to provide instructional services to a public school student who is unable to function effectively in the classroom setting due to the student’s medical, physical, or emotional condition.

(2) A home and hospital teacher may teach in:

(i) A private home;

(ii) A hospital;

(iii) A therapeutic center;

(iv) A school; or

(v) Any other appropriate site.

**[(d)] (E)** (1) “Public school employee” means a certificated professional individual who is employed by a public school employer or an individual of equivalent status in Baltimore City, except for a county superintendent or an individual designated by the public school employer to act in a negotiating capacity as provided in § **[6-408(b)] 6-408(C)** of this subtitle.

(2) In Montgomery County, “public school employees” include:

(i) Certificated and noncertificated substitute teachers employed by the public school employer for at least 7 days before March 1 of the school fiscal year ending June 30, 1978, and each year after; and

(ii) Home and hospital teachers employed by the public school employer for at least 7 days before March 1 of the school fiscal year ending June 30, 2000, and each year after.

(3) In Baltimore County, “public school employee” includes:

(i) A secondary school nurse, an elementary school nurse, and a special school nurse; and

(ii) Supervisory noncertificated employees as defined under § [6-501(h)] **6-501(I)** of this title.

(4) In Frederick County, “public school employee” includes a social worker employed by a public school employer.

(5) In Prince George’s County, “public school employee” includes home and hospital teachers and Junior Reserve Officer Training Corps (JROTC) instructors.

(6) In Charles County and Garrett County, “public school employee” includes Junior Reserve Officer Training Corps (JROTC) instructors.

(7) In Carroll County, “public school employee” includes:

(i) A registered nurse; and

(ii) Supervisory noncertificated employees as defined under § [6-501(h)] **6-501(I)** of this title.

**[(e)] (F)** “Public school employer” means a county board of education or the Baltimore City Board of School Commissioners.

6-405.

(f) (1) The [State] Board shall adopt rules and regulations for:

(i) Verifying the number of certificated employees of the public school employer or individuals of equivalent status in Baltimore City who are members in good standing of an employee organization on the date of the certification or who have signed a petition under this section; and

(ii) Holding elections under this section and the certification of their results.

(2) The [State] Board shall provide for supervision of these elections.

(3) The elections shall be held:

(i) In each school facility where public employees are assigned on a regularly scheduled school day;

(ii) In a manner assuring the secrecy of the ballot; and

(iii) On a regular working day for public school employees, between June 1 and June 15, inclusive, except in Baltimore City where the elections shall be held between November 1 and November 15 following the date on which certification of required membership enrollment is made.

(4) In any election held under this section, the employee organization that receives the largest number of votes cast in a unit shall be declared to be the exclusive representative of all public school employees in the unit. If the largest number of votes in the election is cast not to have exclusive representation, a representative may not be designated for the unit.

(5) The public school employer shall provide any assistance required in holding the elections.

6–408.

(a) [(1) In this section, “negotiate” includes the duty to:

(i) Confer in good faith, at all reasonable times; and

(ii) Reduce to writing the matters agreed on as a result of the negotiations.

**(2)] WHEN A PUBLIC SCHOOL EMPLOYER AND AN EMPLOYEE ORGANIZATION NEGOTIATE UNDER THIS SECTION, THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION SHALL:**

**(1) CONFER IN GOOD FAITH, AT ALL REASONABLE TIMES;**

**(2) HONOR AND ADMINISTER EXISTING AGREEMENTS;**

**(3) MAKE EVERY REASONABLE EFFORT TO CONCLUDE NEGOTIATIONS WITH A FINAL WRITTEN AGREEMENT IN A TIMELY MANNER; AND**

**(4) REDUCE TO WRITING THE MATTERS AGREED ON AS A RESULT OF THE NEGOTIATIONS.**

**(B)** The agreements may provide for binding arbitration of the grievances arising under the agreement that the parties have agreed to be subject to arbitration.

**[(b)] (C)** (1) On request a public school employer or at least two of its designated representatives shall meet and negotiate with at least two representatives of the employee organization that is designated as the exclusive negotiating agent for the public school employees in a unit of the county on all matters that relate to salaries, wages, hours, and other working conditions, **INCLUDING PROCEDURES REGARDING EMPLOYEE TRANSFERS AND ASSIGNMENTS.**

(2) Except as provided in paragraph (3) of this subsection, a public school employer or at least two of its designated representatives may negotiate with at least two representatives of the employee organization that is designated as the exclusive negotiating agent for the public school employees in a unit of the county on other matters that are mutually agreed to by the employer and the employee organization.

(3) A public school employer may not negotiate the school calendar, the maximum number of students assigned to a class, or any matter that is precluded by applicable statutory law.

(4) A matter that is not subject to negotiation under paragraph (2) of this subsection because it has not been mutually agreed to by the employer and the employee organization may not be raised in any action taken to resolve an impasse under subsection **[(d)] (E)** of this section.

**(5) (I) IF A PUBLIC SCHOOL EMPLOYER AND AN EMPLOYEE ORGANIZATION DISPUTE WHETHER A PROPOSED TOPIC FOR NEGOTIATION IS A MANDATORY, A PERMISSIVE, OR AN ILLEGAL TOPIC OF BARGAINING, EITHER PARTY MAY SUBMIT A REQUEST FOR A DECISION IN WRITING TO THE BOARD FOR FINAL RESOLUTION OF THE DISPUTE.**

**(II) A REQUEST FOR A DECISION SHALL:**

**1. CLEARLY IDENTIFY EACH TOPIC OF BARGAINING FOR WHICH THE PARTY IS REQUESTING A DECISION; AND**

**2. BE MADE BEFORE THE BOARD DETERMINES THAT AN IMPASSE HAS BEEN REACHED.**

**(III) IF THE BOARD RECEIVES A REQUEST FOR A DECISION, WITHIN 7 DAYS AFTER RECEIPT OF THE REQUEST, THE BOARD SHALL ISSUE A**

LETTER TO THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION THAT REQUESTS WRITTEN BRIEFS IN SUPPORT OF THEIR RESPECTIVE POSITIONS.

(IV) WITHIN 7 DAYS AFTER RECEIPT OF A REQUEST FROM THE BOARD FOR WRITTEN BRIEFS, THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION SHALL DELIVER TO THE BOARD A WRITTEN BRIEF ON THE ISSUE OF WHETHER THE TOPIC IS MANDATORY, PERMISSIVE, OR ILLEGAL IN NATURE.

(V) AFTER RECEIPT OF WRITTEN BRIEFS FROM THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION, THE BOARD SHALL:

1. CONSIDER THE MERITS OF EACH PARTY'S ARGUMENTS;

2. RENDER A DECISION DETERMINING WHETHER THE TOPIC OF NEGOTIATION IS MANDATORY, PERMISSIVE, OR ILLEGAL; AND

3. ISSUE THE WRITTEN DECISION TO THE PARTIES WITHIN 14 DAYS AFTER RECEIVING THE WRITTEN BRIEFS.

(VI) 1. THE BOARD MAY ADOPT REGULATIONS, GUIDELINES, AND POLICIES TO CARRY OUT ITS RIGHTS AND RESPONSIBILITIES UNDER THIS SECTION.

2. TO RESOLVE DISPUTES UNDER THIS SECTION, THE BOARD SHALL DEVELOP A BALANCING TEST TO DETERMINE WHETHER THE IMPACT OF THE MATTER ON THE SCHOOL SYSTEM AS A WHOLE ~~CLEARLY~~ OUTWEIGHS THE DIRECT IMPACT ON THE TEACHERS OR EMPLOYEES.

[(5)] (6) In Montgomery County, the exclusive negotiating agent for the public school employees in a unit and the public school employer shall meet and negotiate under this section the salaries, wages, hours, and other working conditions of all persons actually employed as substitute teachers or home and hospital teachers.

[(c)] (D) The designation of representatives by the employer under this section does not prevent the designated employee organization from appearing before or making proposals to the public school employer at a public meeting or hearing.

[(d)] (E) (1) If, on the request of either party, the [State Superintendent] BOARD determines from the facts that an impasse is reached in negotiations between a public school employer and an employee organization that is designated as an exclusive negotiating agent, [the assistance and advice of the State Board may be requested, with the consent of both parties.

(2) If consent is not given and at the request of either party, a panel shall be named to aid in resolving the differences.

(3) The panel shall contain three individuals chosen as follows:

(i) One member is to be named by each party within 3 days;  
and

(ii) The third member is to be chosen by the other two members within 10 days after the request.

(4) The State Board or the panel selected shall meet with the parties to aid in resolving the differences, and, if the matter is not resolved, shall make a written report and recommendation within 30 days after the request.

(5) A copy of the report shall be sent to the representatives of the public school employer and the employee organization.

(6) All costs of mediation shall be shared by the public school employer and the employee organization.

(7) Notwithstanding any other provision of this subtitle, the public school employer shall make the final determination as to matters that have been the subject of negotiation, but this final determination] **THE BOARD SHALL WITHIN 10 CALENDAR DAYS:**

**(I) REQUEST LAST AND BEST OFFERS FROM THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION, WHICH MAY NOT INCLUDE ITEMS OR TOPICS NOT PREVIOUSLY RAISED IN THE BARGAINING PROCESS; AND**

**(II) ORDER THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION TO COMMENCE MEDIATION WITHIN 14 DAYS AFTER THE BOARD'S DETERMINATION THAT AN IMPASSE HAS BEEN REACHED.**

**(2) THE LAST AND BEST OFFERS SHALL LIST SEPARATELY EVERY TERM OR CONDITION OF EMPLOYMENT IN DISPUTE AND THE DEMAND OF THE PARTY MAKING THE LAST AND BEST OFFER.**

**(3) WITHIN 5 CALENDAR DAYS AFTER AN ORDER TO MEDIATE, THE PARTIES SHALL SELECT A MEDIATOR BY:**

**(I) AGREEMENT; OR**

(II) ALTERNATE STRIKING FROM A LIST OF SEVEN NEUTRAL PARTIES FURNISHED BY:

1. THE FEDERAL MEDIATION AND CONCILIATION SERVICE; OR

2. THE AMERICAN ARBITRATION ASSOCIATION.

(4) THE MEDIATOR SHALL CONCLUDE THE MEDIATION WITHIN 25 DAYS AFTER CONVENING THE FIRST MEDIATION SESSION.

(5) IF THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION DO NOT REACH AGREEMENT BEFORE CONCLUDING THE MEDIATION, THE MEDIATOR SHALL ISSUE A WRITTEN OFFER TO BOTH PARTIES AND THE BOARD OF SETTLEMENT OF ALL MATTERS RAISED.

(6) WITHIN 5 DAYS AFTER RECEIVING THE PROPOSED SETTLEMENT, THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION EACH SHALL NOTIFY THE MEDIATOR OF ITS INTENT TO:

(I) ACCEPT THE WRITTEN PROPOSED SETTLEMENT; ~~OR~~

(II) ACCEPT THE WRITTEN PROPOSED SETTLEMENT IN PART, AS MUTUALLY AGREED ON BY THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION; OR

~~(III)~~ (III) DECLINE THE PROPOSED SETTLEMENT AND REQUEST ARBITRATION BEFORE THE BOARD.

(7) THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION SHALL SHARE THE COSTS OF THE MEDIATOR EQUALLY.

(8) IF EITHER PARTY DECLINES THE PROPOSED SETTLEMENT AND REQUESTS ARBITRATION, THE BOARD SHALL, WITHIN 5 CALENDAR DAYS, SET A DATE FOR AN ARBITRATION HEARING BEFORE THE BOARD.

(9) THE BOARD SHALL:

(I) OPEN THE ARBITRATION RECORD WITHIN 20 DAYS AFTER RECEIVING EITHER PARTY'S DECISION TO DECLINE THE MEDIATOR'S PROPOSAL;

(II) CONVENE A HEARING;

(III) HEAR TESTIMONY FROM AND RECEIVE SUPPORTING WRITTEN EVIDENCE, AS PROVIDED IN AN ORDER OF THE BOARD, FROM THE PUBLIC SCHOOL EMPLOYER, THE EMPLOYEE ORGANIZATION, AND THE MEDIATOR;

(IV) ADMINISTER OATHS TO WITNESSES DEEMED RELEVANT AND CALLED BY THE BOARD;

(V) ISSUE SUBPOENAS TO COMPEL THE PRODUCTION OF RELEVANT AND NONPRIVILEGED DOCUMENTS AND OTHER TANGIBLE EVIDENCE THAT WOULD ALSO BE SUBJECT TO PRODUCTION BEFORE A HEARING OR AT A HEARING UNDER TITLE 10, SUBTITLE 6, PART III OF THE STATE GOVERNMENT ARTICLE; AND

~~(VI) DECIDE WHETHER TO HEAR EVIDENCE OFFERED THROUGH AN ATTORNEY; AND~~

~~(VII)~~ RECEIVE, HEAR, AND CONSIDER ALL EVIDENCE CONSIDERED RELEVANT BY THE BOARD, WHETHER OR NOT OFFERED THROUGH AN ATTORNEY, INCLUDING:

1. THE WAGES, HOURS, WORKING CONDITIONS, OR OTHER TERMS AND CONDITIONS OF EMPLOYMENT OF SIMILAR PUBLIC EMPLOYEES IN COMPARABLE SURROUNDING JURISDICTIONS AND COMPARABLE JURISDICTIONS OUTSIDE THE STATE; AND

2. THE ABILITY OF THE PUBLIC SCHOOL EMPLOYER AND THE COUNTY SERVED BY THE PUBLIC SCHOOL EMPLOYER TO PAY ~~FROM THE COUNTY'S GENERAL FUND~~, CONSIDERING THEIR EXISTING RESOURCES, THE COSTS OF THE FINAL OFFERS PROPOSED AND OTHER PERSONNEL COSTS.

(10) THE BOARD SHALL CONCLUDE THE HEARING BY ISSUING A WRITTEN ORDER WITHIN 20 DAYS AFTER THE ARBITRATION RECORD IS OPENED.

(11) THE BOARD SHALL ISSUE THE WRITTEN AWARD THAT SELECTS AND ADOPTS:

(I) THE COMPLETE FINAL OFFER OF THE PUBLIC SCHOOL EMPLOYER;

(II) THE COMPLETE FINAL OFFER OF THE EMPLOYEE ORGANIZATION; OR

**(III) THE MEDIATOR’S COMPLETE OFFER OF SETTLEMENT.**

**(12) THE BOARD’S WRITTEN AWARD IS FINAL AND BINDING ON THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION.**

**(13) THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION SHALL SHARE THE COSTS OF THE HEARING EQUALLY.**

**(14) ANY NEGOTIATED PROVISION OR DECISION OF THE BOARD** is subject to the other provisions of this article concerning the fiscal relationship between the public school employer and the county commissioners, county council, and Mayor and City Council of Baltimore City.

**6-408.1.**

**IF A FISCAL AUTHORITY DOES NOT APPROVE ENOUGH FUNDS TO IMPLEMENT THE NEGOTIATED AGREEMENT, THE PUBLIC SCHOOL EMPLOYER SHALL RENEGOTIATE THE FUNDS ALLOCATED FOR THESE PURPOSES BY THE FISCAL AUTHORITY WITH THE EMPLOYEE ORGANIZATION BEFORE THE PUBLIC SCHOOL EMPLOYER MAKES A FINAL DETERMINATION IN ACCORDANCE WITH A TIMETABLE AND PROCEDURE ESTABLISHED BY THE BOARD.**

**6-501.**

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

(b) **“BOARD” MEANS THE PUBLIC SCHOOL LABOR RELATIONS BOARD ESTABLISHED UNDER SUBTITLE 8 OF THIS TITLE.**

(c) “Confidential employee” includes an individual whose employment responsibilities require knowledge of the public school employer’s posture in the collective negotiation process, as determined by the public school employer in negotiations with an employee organization that requests negotiation on this issue.

**[(c)] (D)** “Employee organization” means an organization that:

- (1) Includes noncertificated employees of a public school employer; and
- (2) Has as one of its main purposes the representation of the employees in their relations with that public school employer.

**[(d)] (E)** “Management personnel” includes an individual who is engaged mainly in executive and managerial functions, as determined by the public school employer in negotiation with an employee organization that requests negotiation on this issue.

**[(e)] (F)** “Noncertificated employee”, in Montgomery County, means only a full-time employee.

**[(f)] (G)** (1) “Public school employee” means a noncertificated individual who is employed for at least 9 months a year on a full-time basis by a public school employer.

(2) “Public school employee” includes a noncertificated employee in Baltimore City notwithstanding that the noncertificated employee does not work for at least 9 months a year on a full-time basis.

(3) “Public school employee” does not include:

(i) Management personnel;

(ii) A confidential employee; or

(iii) Any individual designated by the public school employer to act in a negotiating capacity as provided in § **[6-510(b)] 6-510(C)** of this subtitle.

**[(g)] (H)** (1) “Public school employer” means the county board in each county.

(2) “Public school employer” includes the Baltimore City Board of School Commissioners.

**[(h)] (I)** “Supervisory employee” includes any individual who responsibly directs the work of other employees, as determined by the public school employer in negotiation with an employee organization that requests negotiation on this issue.

6-506.

(f) (1) The **[State]** Board shall adopt rules and regulations for:

(i) Verifying the number of public school employees who are members in good standing of an employee organization on the date of the certification or who have signed a petition under this section; and

(ii) Holding elections under this section and the certification of their results.

(2) The **[State]** Board shall provide for supervision of these elections.

(3) The elections shall be held:

(i) In each school facility where public school employees are assigned on a regularly scheduled school day;

(ii) In a manner assuring the secrecy of the ballot; and

(iii) On a regular working day for public school employees, between June 1 and June 15, inclusive.

(4) In all elections held under this section, the employee organization that receives a majority of the votes cast in a unit shall be declared to be the exclusive representative of all public school employees in the unit. If a majority of the votes in the election are cast not to have exclusive representation, a representative may not be designated for the unit.

(5) The two choices on the ballot that receive the most votes shall be placed on a ballot for a runoff election that shall be held in the same manner as the original election if:

(i) More than one employee organization is on the ballot;

(ii) No employee organization obtains a majority of the votes;  
and

(iii) A majority of the votes is not for “not to have exclusive representation”.

(6) The public school employer shall provide any assistance required in conducting the elections.

6–510.

(a) [(1) In this section, “negotiate” includes the duty to:

(i) Confer in good faith, at all reasonable times; and

(ii) Reduce to writing the matters agreed on as a result of the negotiations.

**(2)] WHEN A PUBLIC SCHOOL EMPLOYER AND AN EMPLOYEE ORGANIZATION NEGOTIATE UNDER THIS SECTION, THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION SHALL:**

**(1) CONFER IN GOOD FAITH, AT ALL REASONABLE TIMES;**

**(2) HONOR AND ADMINISTER EXISTING AGREEMENTS;**

**(3) MAKE EVERY REASONABLE EFFORT TO CONCLUDE NEGOTIATIONS WITH A FINAL WRITTEN AGREEMENT IN A TIMELY MANNER; AND**

**(4) REDUCE TO WRITING THE MATTERS AGREED ON AS A RESULT OF THE NEGOTIATIONS.**

**(B)** The agreements may provide for binding arbitration of the grievances arising under the agreement that the parties have agreed to be subject to arbitration.

**[(b)] (C)** (1) On request, a public school employer or at least two of its designated representatives shall meet and negotiate with at least two representatives of the employee organization that is designated as the exclusive negotiating agent for the public school employees in a unit of the county on all matters that relate to salaries, wages, hours, and other working conditions, including the discipline and discharge of an employee for just cause.

(2) Except as provided in paragraph (3) of this subsection, a public school employer or at least two of its designated representatives may negotiate with at least two representatives of the employee organization that is designated as the exclusive negotiating agent for the public school employees in a unit of the county on other matters that are mutually agreed to by the employer and the employee organization.

(3) A public school employer may not negotiate the school calendar, the maximum number of students assigned to a class, or any matter that is precluded by applicable statutory law.

(4) A matter that is not subject to negotiation under paragraph (2) of this subsection because it has not been mutually agreed to by the employer and the employee organization may not be raised in any action taken to resolve an impasse under subsection **[(d)] (E)** of this section.

**(5) (I) IF A PUBLIC SCHOOL EMPLOYER AND AN EMPLOYEE ORGANIZATION DISPUTE WHETHER A PROPOSED TOPIC FOR NEGOTIATION IS A MANDATORY, A PERMISSIVE, OR AN ILLEGAL TOPIC OF BARGAINING, EITHER PARTY MAY SUBMIT A REQUEST FOR A DECISION IN WRITING TO THE BOARD FOR FINAL RESOLUTION OF THE DISPUTE.**

**(II) A REQUEST FOR A DECISION SHALL:**

**1. CLEARLY IDENTIFY EACH TOPIC OF BARGAINING FOR WHICH THE PUBLIC SCHOOL EMPLOYER OR EMPLOYEE ORGANIZATION IS REQUESTING A DECISION; AND**

**2. BE MADE BEFORE THE BOARD DETERMINES THAT AN IMPASSE HAS BEEN REACHED.**

**(III) IF THE BOARD RECEIVES A REQUEST FOR A DECISION, WITHIN 7 DAYS AFTER RECEIPT OF THE REQUEST, THE BOARD SHALL ISSUE A LETTER TO THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION THAT REQUESTS WRITTEN BRIEFS IN SUPPORT OF THEIR RESPECTIVE POSITIONS.**

**(IV) WITHIN 7 DAYS AFTER RECEIPT OF A REQUEST FROM THE BOARD FOR WRITTEN BRIEFS, THE PUBLIC SCHOOL EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE SHALL DELIVER TO THE BOARD A WRITTEN BRIEF ON THE ISSUE OF WHETHER THE TOPIC AT ISSUE IS MANDATORY, PERMISSIVE, OR ILLEGAL IN NATURE.**

**(V) AFTER RECEIPT OF THE WRITTEN BRIEFS FROM THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION, THE BOARD SHALL:**

**1. CONSIDER THE MERITS OF EACH PARTY'S ARGUMENTS;**

**2. RENDER A DECISION DETERMINING WHETHER THE TOPIC OF NEGOTIATION IS MANDATORY, PERMISSIVE, OR ILLEGAL; AND**

**3. ISSUE THE WRITTEN DECISION TO THE PARTIES WITHIN 14 DAYS AFTER RECEIPT OF THE WRITTEN BRIEFS.**

**(VI) 1. THE BOARD MAY ADOPT REGULATIONS, GUIDELINES, AND POLICIES TO CARRY OUT ITS RIGHTS AND RESPONSIBILITIES UNDER THIS SECTION.**

**2. TO RESOLVE DISPUTES UNDER THIS SECTION, THE BOARD SHALL DEVELOP A BALANCING TEST TO DETERMINE WHETHER THE IMPACT OF THE MATTER ON THE SCHOOL SYSTEM AS A WHOLE ~~CLEARLY~~ OUTWEIGHS THE DIRECT IMPACT ON THE EMPLOYEES.**

**[(c)] (D)** The designation of representatives by the employer under this section does not prevent an employee organization from appearing before or making proposals to the public school employer at a public meeting or hearing.

**[(d)] (E)** (1) If, on the request of either party, the [State Superintendent] **BOARD** determines from the facts that an impasse is reached in negotiations between a public school employer and an employee organization that is designated as an

exclusive negotiating agent, [the assistance and advice of the State Board may be requested, with the consent of both parties.

(2) If consent is not given and at the request of either party, a panel shall be named to aid in resolving the differences.

(3) The panel shall contain three individuals chosen as follows:

(i) One member is to be named by each party within 3 days;  
and

(ii) The third member is to be chosen by the other two members within 10 days after the request.

(4) The State Board or the panel selected shall meet with the parties to aid in resolving the differences, and, if the matter is not resolved, shall make a written report and recommendation within 30 days after the request.

(5) A copy of the report shall be sent to representatives of the public school employer and the employee organization.

(6) All costs of the impasse proceedings, including mediation, shall be shared equally by the public school employer and the employee organization.

(7) Notwithstanding any other provision of this subtitle, the public school employer shall make the final determination as to matters which have been the subject of negotiation, but this final determination] **THE BOARD SHALL WITHIN 10 CALENDAR DAYS:**

**(I) REQUEST LAST AND BEST OFFERS FROM THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION, WHICH MAY NOT INCLUDE ITEMS OR TOPICS NOT PREVIOUSLY RAISED IN THE BARGAINING PROCESS; AND**

**(II) ORDER THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION TO COMMENCE MEDIATION WITHIN 14 DAYS AFTER THE BOARD'S DETERMINATION THAT AN IMPASSE HAS BEEN REACHED.**

**(2) THE LAST AND BEST OFFERS SHALL LIST SEPARATELY EVERY TERM OR CONDITION OF EMPLOYMENT IN DISPUTE AND THE DEMAND OF THE PARTY MAKING THE LAST AND BEST OFFER.**

**(3) WITHIN 5 CALENDAR DAYS AFTER AN ORDER TO MEDIATE, THE PARTIES SHALL SELECT A MEDIATOR BY:**

**(I) AGREEMENT; OR**

(II) ALTERNATE STRIKING FROM A LIST OF SEVEN NEUTRAL PARTIES FURNISHED BY:

1. THE FEDERAL MEDIATION AND CONCILIATION SERVICE; OR

2. THE AMERICAN ARBITRATION ASSOCIATION.

(4) THE MEDIATOR SHALL CONCLUDE THE MEDIATION WITHIN 25 DAYS AFTER CONVENING THE FIRST MEDIATION SESSION.

(5) IF THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION DO NOT REACH AGREEMENT BEFORE CONCLUDING THE MEDIATION, THE MEDIATOR SHALL ISSUE A WRITTEN OFFER TO BOTH PARTIES AND THE BOARD OF SETTLEMENT OF ALL MATTERS RAISED.

(6) WITHIN 5 DAYS AFTER RECEIVING THE PROPOSED SETTLEMENT, THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION EACH SHALL NOTIFY THE MEDIATOR OF ITS INTENT TO:

(I) ACCEPT THE WRITTEN PROPOSED SETTLEMENT; ~~OR~~

(II) ACCEPT THE WRITTEN PROPOSED SETTLEMENT IN PART, AS MUTUALLY AGREED ON BY THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION; OR

~~(H)~~ (III) DECLINE THE PROPOSED SETTLEMENT AND REQUEST ARBITRATION BEFORE THE BOARD.

(7) THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION SHALL SHARE THE COSTS OF THE MEDIATOR EQUALLY.

(8) IF EITHER PARTY DECLINES THE PROPOSED SETTLEMENT AND REQUESTS ARBITRATION, THE BOARD SHALL, WITHIN 5 CALENDAR DAYS, SET A DATE FOR AN ARBITRATION HEARING BEFORE THE BOARD.

(9) THE BOARD SHALL:

(I) OPEN THE ARBITRATION RECORD WITHIN 20 DAYS AFTER RECEIVING EITHER PARTY'S DECISION TO DECLINE THE MEDIATOR'S PROPOSAL;

(II) CONVENE A HEARING;

(III) HEAR TESTIMONY FROM AND RECEIVE SUPPORTING WRITTEN EVIDENCE, AS PROVIDED IN AN ORDER OF THE BOARD, FROM THE PUBLIC SCHOOL EMPLOYER, THE EMPLOYEE ORGANIZATION, AND THE MEDIATOR;

(IV) ADMINISTER OATHS TO WITNESSES DEEMED RELEVANT AND CALLED BY THE BOARD;

(V) ISSUE SUBPOENAS TO COMPEL THE PRODUCTION OF RELEVANT AND NONPRIVILEGED DOCUMENTS AND OTHER TANGIBLE EVIDENCE THAT WOULD ALSO BE SUBJECT TO PRODUCTION BEFORE A HEARING OR AT A HEARING UNDER TITLE 10, SUBTITLE 6, PART III OF THE STATE GOVERNMENT ARTICLE; AND

~~(VI) DECIDE WHETHER TO HEAR EVIDENCE OFFERED THROUGH AN ATTORNEY; AND~~

~~(VII)~~ RECEIVE, HEAR, AND CONSIDER ALL EVIDENCE CONSIDERED RELEVANT BY THE BOARD, WHETHER OR NOT OFFERED THROUGH AN ATTORNEY, INCLUDING:

1. THE WAGES, HOURS, WORKING CONDITIONS, OR OTHER TERMS AND CONDITIONS OF EMPLOYMENT OF SIMILAR PUBLIC EMPLOYEES IN COMPARABLE SURROUNDING JURISDICTIONS AND COMPARABLE JURISDICTIONS OUTSIDE THE STATE; AND

2. THE ABILITY OF THE PUBLIC SCHOOL EMPLOYER AND THE COUNTY SERVED BY THE PUBLIC SCHOOL EMPLOYER TO PAY ~~FROM THE COUNTY'S GENERAL FUND~~, CONSIDERING THEIR EXISTING RESOURCES, THE COSTS OF THE FINAL OFFERS PROPOSED AND OTHER PERSONNEL COSTS.

(10) THE BOARD SHALL CONCLUDE THE HEARING BY ISSUING A WRITTEN ORDER WITHIN 20 DAYS AFTER THE ARBITRATION RECORD IS OPENED.

(11) THE BOARD SHALL ISSUE THE WRITTEN AWARD THAT SELECTS AND ADOPTS:

(I) THE COMPLETE FINAL OFFER OF THE PUBLIC SCHOOL EMPLOYER;

(II) THE COMPLETE FINAL OFFER OF THE EMPLOYEE ORGANIZATION; OR

**(III) THE MEDIATOR’S COMPLETE OFFER OF SETTLEMENT.**

**(12) THE BOARD’S WRITTEN AWARD IS FINAL AND BINDING ON THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION.**

**(13) THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION SHALL SHARE THE COSTS OF THE HEARING EQUALLY.**

**(14) ANY NEGOTIATED PROVISION OR DECISION OF THE BOARD** is subject to the other provisions of this article concerning the fiscal relationship between the public school employer and the county commissioners and county council.

6–511.

If the fiscal authority does not approve enough funds to implement the negotiated agreement, the public school employer shall renegotiate the funds allocated for these purposes by the fiscal authority with the employee organization before the public school employer makes a final determination in accordance with the timetable and procedure established by the [State] Board.

**SUBTITLE 8. PUBLIC SCHOOL LABOR RELATIONS BOARD.**

6–801.

**IN THIS SUBTITLE, “BOARD” MEANS THE PUBLIC SCHOOL LABOR RELATIONS BOARD ESTABLISHED UNDER § 6–802 OF THIS SUBTITLE.**

6–802.

**THERE IS A PUBLIC SCHOOL LABOR RELATIONS BOARD ESTABLISHED AS AN INDEPENDENT UNIT OF STATE GOVERNMENT.**

6–803.

**(A) THE BOARD SHALL CONSIST OF THE FOLLOWING FIVE MEMBERS APPOINTED BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE:**

**(1) ONE MEMBER WHO:**

**(I) REPRESENTS THE PUBLIC;**

**(II) HAS EXPERIENCE IN LABOR RELATIONS;**

(III) IS NOT AN OFFICER OR EMPLOYEE OF A BOARD OF EDUCATION OR AN EMPLOYEE ORGANIZATION REPRESENTING PUBLIC SCHOOL SYSTEM EMPLOYEES;

(IV) IS NOT AN ELECTED OFFICIAL OF THE STATE, A COUNTY, OR AN EMPLOYEE ORGANIZATION REPRESENTING PUBLIC SCHOOL EMPLOYEES; ~~AND~~

(V) IS KNOWN FOR OBJECTIVE AND INDEPENDENT JUDGMENT; AND

(VI) IS NOT AN ACTIVE MEMBER OF A LABOR UNION;

(2) TWO MEMBERS, INCLUDING ONE MEMBER CHOSEN FROM A LIST OF CANDIDATES SUBMITTED BY THE ORGANIZATION REPRESENTING A MAJORITY OF PUBLIC SCHOOL EMPLOYEES IN THE STATE FOR COLLECTIVE BARGAINING PURPOSES AND ANOTHER MEMBER CHOSEN FROM A LIST OF CANDIDATES SUBMITTED BY A STATEWIDE ORGANIZATION REPRESENTING PUBLIC SCHOOL EMPLOYEES IN AT LEAST ONE JURISDICTION WITHIN THE STATE FOR COLLECTIVE BARGAINING PURPOSES OTHER THAN THE MAJORITY ORGANIZATION UNDER THIS PARAGRAPH, WHO:

(I) ARE NOT EMPLOYEES OF THE STATE OR A PUBLIC SCHOOL EMPLOYEE ORGANIZATION; AND

(II) ARE KNOWN FOR OBJECTIVE AND INDEPENDENT JUDGMENT; AND

(3) TWO MEMBERS ~~OF THE EDUCATION OR BUSINESS COMMUNITY~~, CHOSEN FROM A LIST OF CANDIDATES SUBMITTED BY THE MARYLAND ASSOCIATION OF BOARDS OF EDUCATION AND THE STATE SUPERINTENDENTS ASSOCIATION OF MARYLAND, WHO:

(I) ARE NOT OFFICERS OR EMPLOYEES OF THE STATE OR COUNTY OR STATE BOARDS OF EDUCATION AND ARE NOT OFFICERS OR EMPLOYEES OF EMPLOYEE ORGANIZATIONS REPRESENTING EMPLOYEES OF PUBLIC SCHOOL SYSTEMS IN MARYLAND; AND

(II) ARE KNOWN FOR OBJECTIVE AND INDEPENDENT JUDGMENT.

(B) BEFORE TAKING OFFICE EACH MEMBER SHALL TAKE THE OATH REQUIRED BY ARTICLE I, SECTION 9 OF THE MARYLAND CONSTITUTION.

(C) THE PUBLIC SCHOOL LABOR RELATIONS BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

(D) (1) THE TERM OF A MEMBER IS 5 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON JULY 1, 2010.

(3) AT THE END OF A TERM A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REMAINDER OF THAT TERM.

(E) THE GOVERNOR MAY REMOVE A MEMBER ONLY FOR INCOMPETENCE OR MISCONDUCT.

6-804.

A MEMBER OF THE BOARD SHALL BE ENTITLED TO:

(1) COMPENSATION IN ACCORDANCE WITH THE STATE BUDGET;  
AND

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

6-805.

THE BOARD SHALL SHARE AN EXECUTIVE DIRECTOR WITH THE HIGHER EDUCATION LABOR RELATIONS BOARD AND THE STATE LABOR RELATIONS BOARD.

6-806.

(A) THE BOARD SHALL ADMINISTER AND ENFORCE THE PROVISIONS OF SUBTITLES 4 AND 5 OF THIS TITLE.

(B) THE BOARD MAY:

(1) ADOPT REGULATIONS, GUIDELINES, AND POLICIES TO CARRY OUT THE RIGHTS AND RESPONSIBILITIES OF THE BOARD UNDER THIS TITLE;  
AND

**(2) MAKE RECOMMENDATIONS FOR LEGISLATIVE ACTION REGARDING THE OPERATION OF THIS TITLE.**

**6-807.**

**(A) IN DECIDING MATTERS COVERED UNDER THE PROVISIONS OF SUBTITLES 4 AND 5 OF THIS TITLE, THE BOARD:**

**(1) MAY:**

**(I) CONDUCT HEARINGS;**

**(II) SUBPOENA WITNESSES AND DOCUMENTS;**

**(III) ADMINISTER OATHS;**

**(IV) TAKE THE TESTIMONY OR DEPOSITION OF A PERSON UNDER OATH; AND**

**(V) CONDUCT INVESTIGATIONS; AND**

**(2) SHALL DECIDE CONTROVERSIES AND DISPUTES.**

**(B) (1) IF A PERSON FAILS TO COMPLY WITH AN ORDER ISSUED BY THE BOARD, A MEMBER OF THE BOARD MAY PETITION THE CIRCUIT COURT TO ORDER THE PERSON TO COMPLY WITH THE BOARD'S ORDER.**

**(2) THE BOARD MAY NOT BE REQUIRED TO POST BOND IN AN ACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

**(C) EACH HEARING AND DETERMINATION OF AN APPEAL OR COMPLAINT BY THE BOARD IS A CONTESTED CASE, SUBJECT TO THE PROVISIONS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.**

**(D) A PRIOR ORDER, ACTION, OR OPINION ISSUED BY THE STATE BOARD BEFORE THE ENACTMENT OF THIS SECTION MAY BE CONSIDERED AS PRECEDENT IN MATTERS ARISING AFTER THE ENACTMENT OF THIS SECTION, BUT IT IS NOT BINDING ON THE BOARD.**

**Article - State Personnel and Pensions**

3-204.

(a) (1) The State Labor Relations Board, **THE PUBLIC SCHOOL LABOR RELATIONS BOARD**, and the State Higher Education Labor Relations Board jointly shall appoint an Executive Director of the boards.

(2) The Executive Director:

(i) is responsible to and serves at the pleasure of the boards;  
and

(ii) is entitled to the salary provided in the State budget.

(b) The Executive Director shall perform the duties that the boards assign, including:

(1) operating the office of the boards; and

(2) keeping the official records of the boards.

(c) The Executive Director may hire any staff necessary to carry out the provisions of this subtitle.

(d) (1) With approval of the boards, the Executive Director may employ professional consultants.

(2) Each professional consultant serves at the pleasure of the Executive Director.

**SECTION 2. AND BE IT FURTHER ENACTED,** That the terms of the members of the Public School Labor Relations Board shall expire as follows:

(a) one member in 2012;

(b) two members in 2013; and

(c) two members in 2014.

**SECTION 3. AND BE IT FURTHER ENACTED,** That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any negotiations requested or entered into before the effective date of this Act.

**SECTION 4. AND BE IT FURTHER ENACTED,** That nothing in this Act may be construed to prevent a party from appealing a final decision of the Public School Labor Relations Board to a circuit court.

**SECTION 5. AND BE IT FURTHER ENACTED,** That, on or before July 1, 2014, the Public School Labor Relations Board shall report to the General Assembly,

in accordance with § 2-1246 of the State Government Article, on the implementation of this Act.

SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010. It shall remain effective for a period of 5 years and, at the end of June 30, 2015, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 325**

**(House Bill 243)**

AN ACT concerning

### **Fairness in Negotiations Act**

FOR the purpose of establishing as an independent unit of State government a Public School Labor Relations Board to assume certain duties previously held by the State Board of Education; requiring the Public School Labor Relations Board to hear certain controversies and disputes; establishing that certain decisions by the Public School Labor Relations Board are final; requiring the Public School Labor Relations Board to adopt certain rules and regulations related to the designation of an exclusive representative; requiring the Public School Labor Relations Board to supervise certain elections concerning employee representation; requiring a public school employer and an employee organization to negotiate in a certain manner under certain circumstances; including procedures regarding employee transfers and assignments among the matters a public school employer must meet and negotiate with a certain employee organization on request; establishing certain processes and requirements for the resolution of disputes over the negotiability of certain topics; authorizing the Public School Labor Relations Board to adopt certain regulations, guidelines, and policies; repealing certain provisions of law regarding the resolution of certain impasses in negotiations; requiring the Public School Labor Relations Board to facilitate the beginning of mediation of certain disputes within a certain period of time and in a certain manner; establishing a certain process for the mediation of certain disputes; requiring a mediator to conclude certain mediations within a certain period of time; requiring a public school employer and employee organization to share certain dispute resolution costs equally; establishing certain processes for arbitration of certain disputes left unresolved by mediation; requiring the Public School Labor Relations Board to facilitate certain arbitration processes within a certain period of time and in a certain manner; requiring the Public School Labor Relations Board to issue a certain award at the end of arbitration; subjecting

certain negotiated provisions or decisions to certain provisions of law concerning the fiscal relationship between public school employers and certain governing bodies; requiring public school employers to renegotiate certain agreements with employee organizations under certain circumstances in a certain manner; specifying the manner of appointment, membership, duties, and responsibilities of the Public School Labor Relations Board; providing for the staffing of the Public School Labor Relations Board; providing for the staggering of terms of the members of the Public School Labor Relations Board; requiring the Public School Labor Relations Board to decide certain controversies and disputes involving public school employers and employee organizations; authorizing a member of the Public School Labor Relations Board to petition a circuit court to seek enforcement of an order of the Public School Labor Relations Board; providing that a certain hearing and determination under this Act is a contested case; establishing the significance of certain prior orders, actions, and opinions of the State Board of Education in deciding certain matters arising after the enactment of this Act; providing for the application and construction of this Act; requiring the Public School Labor Relations Board to report to the General Assembly on or before a certain date; providing for the termination of this Act; defining certain terms; making stylistic changes; and generally relating to public school education, collective bargaining, and dispute resolution.

BY repealing and reenacting, with amendments,

Article – Education

Section 2–205(e), 6–401, 6–405(f), 6–408, 6–501, 6–506(f), 6–510, and 6–511

Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

BY adding to

Article – Education

Section 6–408.1; and 6–801 through 6–807 to be under the new subtitle  
“Subtitle 8. Public School Labor Relations Board”

Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions

Section 3–204

Annotated Code of Maryland

(2009 Replacement Volume and 2009 Supplement)

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

#### **Article – Education**

2–205.

(e) (1) Without charge and with the advice of the Attorney General, the State Board shall explain the true intent and meaning of the provisions of:

- (i) This article that are within its jurisdiction; and
- (ii) The bylaws, rules, and regulations adopted by the Board.

(2) **[The] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION AND IN TITLE 6, SUBTITLES 4 AND 5 OF THIS ARTICLE, THE Board shall decide all controversies and disputes under these provisions.**

(3) The decision of the Board is final.

**(4) (I) THE PUBLIC SCHOOL LABOR RELATIONS BOARD SHALL DECIDE ANY CONTROVERSY OR DISPUTE ARISING UNDER TITLE 6, SUBTITLE 4 OR SUBTITLE 5 OF THIS ARTICLE.**

**(II) A DECISION OF THE PUBLIC SCHOOL LABOR RELATIONS BOARD IS FINAL.**

6-401.

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

(b) **“BOARD” MEANS THE PUBLIC SCHOOL LABOR RELATIONS BOARD ESTABLISHED UNDER SUBTITLE 8 OF THIS TITLE.**

(c) “Employee organization” means an organization that:

(1) Includes certificated employees of a public school employer or individuals of equivalent status in Baltimore City; and

(2) Has as one of its main purposes the representation of the employees in their relations with that public school employer.

**[(c)] (D)** (1) “Home and hospital teacher” means a teacher employed by a public school employer to provide instructional services to a public school student who is unable to function effectively in the classroom setting due to the student’s medical, physical, or emotional condition.

(2) A home and hospital teacher may teach in:

- (i) A private home;
- (ii) A hospital;

- (iii) A therapeutic center;
- (iv) A school; or
- (v) Any other appropriate site.

**[(d)] (E)** (1) “Public school employee” means a certificated professional individual who is employed by a public school employer or an individual of equivalent status in Baltimore City, except for a county superintendent or an individual designated by the public school employer to act in a negotiating capacity as provided in § **[6–408(b)] 6–408(C)** of this subtitle.

(2) In Montgomery County, “public school employees” include:

(i) Certificated and noncertificated substitute teachers employed by the public school employer for at least 7 days before March 1 of the school fiscal year ending June 30, 1978, and each year after; and

(ii) Home and hospital teachers employed by the public school employer for at least 7 days before March 1 of the school fiscal year ending June 30, 2000, and each year after.

(3) In Baltimore County, “public school employee” includes:

(i) A secondary school nurse, an elementary school nurse, and a special school nurse; and

(ii) Supervisory noncertificated employees as defined under § **[6–501(h)] 6–501(I)** of this title.

(4) In Frederick County, “public school employee” includes a social worker employed by a public school employer.

(5) In Prince George’s County, “public school employee” includes home and hospital teachers and Junior Reserve Officer Training Corps (JROTC) instructors.

(6) In Charles County and Garrett County, “public school employee” includes Junior Reserve Officer Training Corps (JROTC) instructors.

(7) In Carroll County, “public school employee” includes:

(i) A registered nurse; and

(ii) Supervisory noncertificated employees as defined under § **[6–501(h)] 6–501(I)** of this title.

[(e)] (F) “Public school employer” means a county board of education or the Baltimore City Board of School Commissioners.

6–405.

(f) (1) The [State] Board shall adopt rules and regulations for:

(i) Verifying the number of certificated employees of the public school employer or individuals of equivalent status in Baltimore City who are members in good standing of an employee organization on the date of the certification or who have signed a petition under this section; and

(ii) Holding elections under this section and the certification of their results.

(2) The [State] Board shall provide for supervision of these elections.

(3) The elections shall be held:

(i) In each school facility where public employees are assigned on a regularly scheduled school day;

(ii) In a manner assuring the secrecy of the ballot; and

(iii) On a regular working day for public school employees, between June 1 and June 15, inclusive, except in Baltimore City where the elections shall be held between November 1 and November 15 following the date on which certification of required membership enrollment is made.

(4) In any election held under this section, the employee organization that receives the largest number of votes cast in a unit shall be declared to be the exclusive representative of all public school employees in the unit. If the largest number of votes in the election is cast not to have exclusive representation, a representative may not be designated for the unit.

(5) The public school employer shall provide any assistance required in holding the elections.

6–408.

(a) [(1)] In this section, “negotiate” includes the duty to:

(i) Confer in good faith, at all reasonable times; and

(ii) Reduce to writing the matters agreed on as a result of the negotiations.

**(2)] WHEN A PUBLIC SCHOOL EMPLOYER AND AN EMPLOYEE ORGANIZATION NEGOTIATE UNDER THIS SECTION, THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION SHALL:**

- (1) CONFER IN GOOD FAITH, AT ALL REASONABLE TIMES;**
- (2) HONOR AND ADMINISTER EXISTING AGREEMENTS;**
- (3) MAKE EVERY REASONABLE EFFORT TO CONCLUDE NEGOTIATIONS WITH A FINAL WRITTEN AGREEMENT IN A TIMELY MANNER; AND**
- (4) REDUCE TO WRITING THE MATTERS AGREED ON AS A RESULT OF THE NEGOTIATIONS.**

**(B)** The agreements may provide for binding arbitration of the grievances arising under the agreement that the parties have agreed to be subject to arbitration.

**[(b)] (C)** (1) On request a public school employer or at least two of its designated representatives shall meet and negotiate with at least two representatives of the employee organization that is designated as the exclusive negotiating agent for the public school employees in a unit of the county on all matters that relate to salaries, wages, hours, and other working conditions, **INCLUDING PROCEDURES REGARDING EMPLOYEE TRANSFERS AND ASSIGNMENTS.**

(2) Except as provided in paragraph (3) of this subsection, a public school employer or at least two of its designated representatives may negotiate with at least two representatives of the employee organization that is designated as the exclusive negotiating agent for the public school employees in a unit of the county on other matters that are mutually agreed to by the employer and the employee organization.

(3) A public school employer may not negotiate the school calendar, the maximum number of students assigned to a class, or any matter that is precluded by applicable statutory law.

(4) A matter that is not subject to negotiation under paragraph (2) of this subsection because it has not been mutually agreed to by the employer and the employee organization may not be raised in any action taken to resolve an impasse under subsection **[(d)] (E)** of this section.

**(5) (I) IF A PUBLIC SCHOOL EMPLOYER AND AN EMPLOYEE ORGANIZATION DISPUTE WHETHER A PROPOSED TOPIC FOR NEGOTIATION IS A MANDATORY, A PERMISSIVE, OR AN ILLEGAL TOPIC OF BARGAINING, EITHER PARTY MAY SUBMIT A REQUEST FOR A DECISION IN WRITING TO THE BOARD FOR FINAL RESOLUTION OF THE DISPUTE.**

**(II) A REQUEST FOR A DECISION SHALL:**

**1. CLEARLY IDENTIFY EACH TOPIC OF BARGAINING FOR WHICH THE PARTY IS REQUESTING A DECISION; AND**

**2. BE MADE BEFORE THE BOARD DETERMINES THAT AN IMPASSE HAS BEEN REACHED.**

**(III) IF THE BOARD RECEIVES A REQUEST FOR A DECISION, WITHIN 7 DAYS AFTER RECEIPT OF THE REQUEST, THE BOARD SHALL ISSUE A LETTER TO THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION THAT REQUESTS WRITTEN BRIEFS IN SUPPORT OF THEIR RESPECTIVE POSITIONS.**

**(IV) WITHIN 7 DAYS AFTER RECEIPT OF A REQUEST FROM THE BOARD FOR WRITTEN BRIEFS, THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION SHALL DELIVER TO THE BOARD A WRITTEN BRIEF ON THE ISSUE OF WHETHER THE TOPIC IS MANDATORY, PERMISSIVE, OR ILLEGAL IN NATURE.**

**(V) AFTER RECEIPT OF WRITTEN BRIEFS FROM THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION, THE BOARD SHALL:**

**1. CONSIDER THE MERITS OF EACH PARTY'S ARGUMENTS;**

**2. RENDER A DECISION DETERMINING WHETHER THE TOPIC OF NEGOTIATION IS MANDATORY, PERMISSIVE, OR ILLEGAL; AND**

**3. ISSUE THE WRITTEN DECISION TO THE PARTIES WITHIN 14 DAYS AFTER RECEIVING THE WRITTEN BRIEFS.**

**(VI) 1. THE BOARD MAY ADOPT REGULATIONS, GUIDELINES, AND POLICIES TO CARRY OUT ITS RIGHTS AND RESPONSIBILITIES UNDER THIS SECTION.**

**2. TO RESOLVE DISPUTES UNDER THIS SECTION, THE BOARD SHALL DEVELOP A BALANCING TEST TO DETERMINE WHETHER THE IMPACT OF THE MATTER ON THE SCHOOL SYSTEM AS A WHOLE ~~CLEARLY~~ OUTWEIGHS THE DIRECT IMPACT ON THE TEACHERS OR EMPLOYEES.**

**[(5)] (6)** In Montgomery County, the exclusive negotiating agent for the public school employees in a unit and the public school employer shall meet and

negotiate under this section the salaries, wages, hours, and other working conditions of all persons actually employed as substitute teachers or home and hospital teachers.

**[(c)] (D)** The designation of representatives by the employer under this section does not prevent the designated employee organization from appearing before or making proposals to the public school employer at a public meeting or hearing.

**[(d)] (E)** (1) If, on the request of either party, the **[State Superintendent] BOARD** determines from the facts that an impasse is reached in negotiations between a public school employer and an employee organization that is designated as an exclusive negotiating agent, **[the assistance and advice of the State Board may be requested, with the consent of both parties.**

(2) If consent is not given and at the request of either party, a panel shall be named to aid in resolving the differences.

(3) The panel shall contain three individuals chosen as follows:

(i) One member is to be named by each party within 3 days;  
and

(ii) The third member is to be chosen by the other two members within 10 days after the request.

(4) The State Board or the panel selected shall meet with the parties to aid in resolving the differences, and, if the matter is not resolved, shall make a written report and recommendation within 30 days after the request.

(5) A copy of the report shall be sent to the representatives of the public school employer and the employee organization.

(6) All costs of mediation shall be shared by the public school employer and the employee organization.

(7) Notwithstanding any other provision of this subtitle, the public school employer shall make the final determination as to matters that have been the subject of negotiation, but this final determination] **THE BOARD SHALL WITHIN 10 CALENDAR DAYS:**

**(I) REQUEST LAST AND BEST OFFERS FROM THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION, WHICH MAY NOT INCLUDE ITEMS OR TOPICS NOT PREVIOUSLY RAISED IN THE BARGAINING PROCESS; AND**

(II) ORDER THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION TO COMMENCE MEDIATION WITHIN 14 DAYS AFTER THE BOARD'S DETERMINATION THAT AN IMPASSE HAS BEEN REACHED.

(2) THE LAST AND BEST OFFERS SHALL LIST SEPARATELY EVERY TERM OR CONDITION OF EMPLOYMENT IN DISPUTE AND THE DEMAND OF THE PARTY MAKING THE LAST AND BEST OFFER.

(3) WITHIN 5 CALENDAR DAYS AFTER AN ORDER TO MEDIATE, THE PARTIES SHALL SELECT A MEDIATOR BY:

(I) AGREEMENT; OR

(II) ALTERNATE STRIKING FROM A LIST OF SEVEN NEUTRAL PARTIES FURNISHED BY:

1. THE FEDERAL MEDIATION AND CONCILIATION SERVICE; OR

2. THE AMERICAN ARBITRATION ASSOCIATION.

(4) THE MEDIATOR SHALL CONCLUDE THE MEDIATION WITHIN 25 DAYS AFTER CONVENING THE FIRST MEDIATION SESSION.

(5) IF THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION DO NOT REACH AGREEMENT BEFORE CONCLUDING THE MEDIATION, THE MEDIATOR SHALL ISSUE A WRITTEN OFFER TO BOTH PARTIES AND THE BOARD OF SETTLEMENT OF ALL MATTERS RAISED.

(6) WITHIN 5 DAYS AFTER RECEIVING THE PROPOSED SETTLEMENT, THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION EACH SHALL NOTIFY THE MEDIATOR OF ITS INTENT TO:

(I) ACCEPT THE WRITTEN PROPOSED SETTLEMENT; ~~OR~~

(II) ACCEPT THE WRITTEN PROPOSED SETTLEMENT IN PART, AS MUTUALLY AGREED ON BY THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION; OR

~~(II)~~ (III) DECLINE THE PROPOSED SETTLEMENT AND REQUEST ARBITRATION BEFORE THE BOARD.

(7) THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION SHALL SHARE THE COSTS OF THE MEDIATOR EQUALLY.

**(8) IF EITHER PARTY DECLINES THE PROPOSED SETTLEMENT AND REQUESTS ARBITRATION, THE BOARD SHALL, WITHIN 5 CALENDAR DAYS, SET A DATE FOR AN ARBITRATION HEARING BEFORE THE BOARD.**

**(9) THE BOARD SHALL:**

**(I) OPEN THE ARBITRATION RECORD WITHIN 20 DAYS AFTER RECEIVING EITHER PARTY'S DECISION TO DECLINE THE MEDIATOR'S PROPOSAL;**

**(II) CONVENE A HEARING;**

**(III) HEAR TESTIMONY FROM AND RECEIVE SUPPORTING WRITTEN EVIDENCE, AS PROVIDED IN AN ORDER OF THE BOARD, FROM THE PUBLIC SCHOOL EMPLOYER, THE EMPLOYEE ORGANIZATION, AND THE MEDIATOR;**

**(IV) ADMINISTER OATHS TO WITNESSES DEEMED RELEVANT AND CALLED BY THE BOARD;**

**(V) ISSUE SUBPOENAS TO COMPEL THE PRODUCTION OF RELEVANT AND NONPRIVILEGED DOCUMENTS AND OTHER TANGIBLE EVIDENCE THAT WOULD ALSO BE SUBJECT TO PRODUCTION BEFORE A HEARING OR AT A HEARING UNDER TITLE 10, SUBTITLE 6, PART III OF THE STATE GOVERNMENT ARTICLE; AND**

**~~(VI) DECIDE WHETHER TO HEAR EVIDENCE OFFERED THROUGH AN ATTORNEY; AND~~**

**~~(VII)~~ RECEIVE, HEAR, AND CONSIDER ALL EVIDENCE CONSIDERED RELEVANT BY THE BOARD, WHETHER OR NOT OFFERED THROUGH AN ATTORNEY, INCLUDING:**

**1. THE WAGES, HOURS, WORKING CONDITIONS, OR OTHER TERMS AND CONDITIONS OF EMPLOYMENT OF SIMILAR PUBLIC EMPLOYEES IN COMPARABLE SURROUNDING JURISDICTIONS AND COMPARABLE JURISDICTIONS OUTSIDE THE STATE; AND**

**2. THE ABILITY OF THE PUBLIC SCHOOL EMPLOYER AND THE COUNTY SERVED BY THE PUBLIC SCHOOL EMPLOYER TO PAY ~~FROM THE COUNTY'S GENERAL FUND,~~ CONSIDERING THEIR EXISTING RESOURCES, THE COSTS OF THE FINAL OFFERS PROPOSED AND OTHER PERSONNEL COSTS.**

**(10) THE BOARD SHALL CONCLUDE THE HEARING BY ISSUING A WRITTEN ORDER WITHIN 20 DAYS AFTER THE ARBITRATION RECORD IS OPENED.**

**(11) THE BOARD SHALL ISSUE THE WRITTEN AWARD THAT SELECTS AND ADOPTS:**

**(I) THE COMPLETE FINAL OFFER OF THE PUBLIC SCHOOL EMPLOYER;**

**(II) THE COMPLETE FINAL OFFER OF THE EMPLOYEE ORGANIZATION; OR**

**(III) THE MEDIATOR'S COMPLETE OFFER OF SETTLEMENT.**

**(12) THE BOARD'S WRITTEN AWARD IS FINAL AND BINDING ON THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION.**

**(13) THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION SHALL SHARE THE COSTS OF THE HEARING EQUALLY.**

**(14) ANY NEGOTIATED PROVISION OR DECISION OF THE BOARD** is subject to the other provisions of this article concerning the fiscal relationship between the public school employer and the county commissioners, county council, and Mayor and City Council of Baltimore City.

#### **6-408.1.**

**IF A FISCAL AUTHORITY DOES NOT APPROVE ENOUGH FUNDS TO IMPLEMENT THE NEGOTIATED AGREEMENT, THE PUBLIC SCHOOL EMPLOYER SHALL RENEGOTIATE THE FUNDS ALLOCATED FOR THESE PURPOSES BY THE FISCAL AUTHORITY WITH THE EMPLOYEE ORGANIZATION BEFORE THE PUBLIC SCHOOL EMPLOYER MAKES A FINAL DETERMINATION IN ACCORDANCE WITH A TIMETABLE AND PROCEDURE ESTABLISHED BY THE BOARD.**

#### **6-501.**

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

(b) **"BOARD" MEANS THE PUBLIC SCHOOL LABOR RELATIONS BOARD ESTABLISHED UNDER SUBTITLE 8 OF THIS TITLE.**

(c) **"Confidential employee"** includes an individual whose employment responsibilities require knowledge of the public school employer's posture in the

collective negotiation process, as determined by the public school employer in negotiations with an employee organization that requests negotiation on this issue.

**[(c)] (D)** “Employee organization” means an organization that:

- (1) Includes noncertificated employees of a public school employer; and
- (2) Has as one of its main purposes the representation of the employees in their relations with that public school employer.

**[(d)] (E)** “Management personnel” includes an individual who is engaged mainly in executive and managerial functions, as determined by the public school employer in negotiation with an employee organization that requests negotiation on this issue.

**[(e)] (F)** “Noncertificated employee”, in Montgomery County, means only a full-time employee.

**[(f)] (G)** (1) “Public school employee” means a noncertificated individual who is employed for at least 9 months a year on a full-time basis by a public school employer.

(2) “Public school employee” includes a noncertificated employee in Baltimore City notwithstanding that the noncertificated employee does not work for at least 9 months a year on a full-time basis.

- (3) “Public school employee” does not include:
- (i) Management personnel;
  - (ii) A confidential employee; or
  - (iii) Any individual designated by the public school employer to act in a negotiating capacity as provided in § **[6-510(b)] 6-510(C)** of this subtitle.

**[(g)] (H)** (1) “Public school employer” means the county board in each county.

(2) “Public school employer” includes the Baltimore City Board of School Commissioners.

**[(h)] (I)** “Supervisory employee” includes any individual who responsibly directs the work of other employees, as determined by the public school employer in negotiation with an employee organization that requests negotiation on this issue.

- (f) (1) The [State] Board shall adopt rules and regulations for:
- (i) Verifying the number of public school employees who are members in good standing of an employee organization on the date of the certification or who have signed a petition under this section; and
  - (ii) Holding elections under this section and the certification of their results.
- (2) The [State] Board shall provide for supervision of these elections.
- (3) The elections shall be held:
- (i) In each school facility where public school employees are assigned on a regularly scheduled school day;
  - (ii) In a manner assuring the secrecy of the ballot; and
  - (iii) On a regular working day for public school employees, between June 1 and June 15, inclusive.
- (4) In all elections held under this section, the employee organization that receives a majority of the votes cast in a unit shall be declared to be the exclusive representative of all public school employees in the unit. If a majority of the votes in the election are cast not to have exclusive representation, a representative may not be designated for the unit.
- (5) The two choices on the ballot that receive the most votes shall be placed on a ballot for a runoff election that shall be held in the same manner as the original election if:
- (i) More than one employee organization is on the ballot;
  - (ii) No employee organization obtains a majority of the votes;
- and
- (iii) A majority of the votes is not for “not to have exclusive representation”.
- (6) The public school employer shall provide any assistance required in conducting the elections.

6-510.

- (a) [(1) In this section, “negotiate” includes the duty to:

(i) Confer in good faith, at all reasonable times; and

(ii) Reduce to writing the matters agreed on as a result of the negotiations.

**(2)] WHEN A PUBLIC SCHOOL EMPLOYER AND AN EMPLOYEE ORGANIZATION NEGOTIATE UNDER THIS SECTION, THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION SHALL:**

- (1) CONFER IN GOOD FAITH, AT ALL REASONABLE TIMES;**
- (2) HONOR AND ADMINISTER EXISTING AGREEMENTS;**
- (3) MAKE EVERY REASONABLE EFFORT TO CONCLUDE NEGOTIATIONS WITH A FINAL WRITTEN AGREEMENT IN A TIMELY MANNER; AND**
- (4) REDUCE TO WRITING THE MATTERS AGREED ON AS A RESULT OF THE NEGOTIATIONS.**

**(B)** The agreements may provide for binding arbitration of the grievances arising under the agreement that the parties have agreed to be subject to arbitration.

**[(b)] (C)** (1) On request, a public school employer or at least two of its designated representatives shall meet and negotiate with at least two representatives of the employee organization that is designated as the exclusive negotiating agent for the public school employees in a unit of the county on all matters that relate to salaries, wages, hours, and other working conditions, including the discipline and discharge of an employee for just cause.

(2) Except as provided in paragraph (3) of this subsection, a public school employer or at least two of its designated representatives may negotiate with at least two representatives of the employee organization that is designated as the exclusive negotiating agent for the public school employees in a unit of the county on other matters that are mutually agreed to by the employer and the employee organization.

(3) A public school employer may not negotiate the school calendar, the maximum number of students assigned to a class, or any matter that is precluded by applicable statutory law.

(4) A matter that is not subject to negotiation under paragraph (2) of this subsection because it has not been mutually agreed to by the employer and the employee organization may not be raised in any action taken to resolve an impasse under subsection **[(d)] (E)** of this section.

**(5) (I) IF A PUBLIC SCHOOL EMPLOYER AND AN EMPLOYEE ORGANIZATION DISPUTE WHETHER A PROPOSED TOPIC FOR NEGOTIATION IS A MANDATORY, A PERMISSIVE, OR AN ILLEGAL TOPIC OF BARGAINING, EITHER PARTY MAY SUBMIT A REQUEST FOR A DECISION IN WRITING TO THE BOARD FOR FINAL RESOLUTION OF THE DISPUTE.**

**(II) A REQUEST FOR A DECISION SHALL:**

**1. CLEARLY IDENTIFY EACH TOPIC OF BARGAINING FOR WHICH THE PUBLIC SCHOOL EMPLOYER OR EMPLOYEE ORGANIZATION IS REQUESTING A DECISION; AND**

**2. BE MADE BEFORE THE BOARD DETERMINES THAT AN IMPASSE HAS BEEN REACHED.**

**(III) IF THE BOARD RECEIVES A REQUEST FOR A DECISION, WITHIN 7 DAYS AFTER RECEIPT OF THE REQUEST, THE BOARD SHALL ISSUE A LETTER TO THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION THAT REQUESTS WRITTEN BRIEFS IN SUPPORT OF THEIR RESPECTIVE POSITIONS.**

**(IV) WITHIN 7 DAYS AFTER RECEIPT OF A REQUEST FROM THE BOARD FOR WRITTEN BRIEFS, THE PUBLIC SCHOOL EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE SHALL DELIVER TO THE BOARD A WRITTEN BRIEF ON THE ISSUE OF WHETHER THE TOPIC AT ISSUE IS MANDATORY, PERMISSIVE, OR ILLEGAL IN NATURE.**

**(V) AFTER RECEIPT OF THE WRITTEN BRIEFS FROM THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION, THE BOARD SHALL:**

**1. CONSIDER THE MERITS OF EACH PARTY'S ARGUMENTS;**

**2. RENDER A DECISION DETERMINING WHETHER THE TOPIC OF NEGOTIATION IS MANDATORY, PERMISSIVE, OR ILLEGAL; AND**

**3. ISSUE THE WRITTEN DECISION TO THE PARTIES WITHIN 14 DAYS AFTER RECEIPT OF THE WRITTEN BRIEFS.**

**(VI) 1. THE BOARD MAY ADOPT REGULATIONS, GUIDELINES, AND POLICIES TO CARRY OUT ITS RIGHTS AND RESPONSIBILITIES UNDER THIS SECTION.**

**2. TO RESOLVE DISPUTES UNDER THIS SECTION, THE BOARD SHALL DEVELOP A BALANCING TEST TO DETERMINE WHETHER THE IMPACT OF THE MATTER ON THE SCHOOL SYSTEM AS A WHOLE ~~CLEARLY~~ OUTWEIGHS THE DIRECT IMPACT ON THE EMPLOYEES.**

**[(c)] (D)** The designation of representatives by the employer under this section does not prevent an employee organization from appearing before or making proposals to the public school employer at a public meeting or hearing.

**[(d)] (E)** (1) If, on the request of either party, the [State Superintendent] **BOARD** determines from the facts that an impasse is reached in negotiations between a public school employer and an employee organization that is designated as an exclusive negotiating agent, [the assistance and advice of the State Board may be requested, with the consent of both parties.

(2) If consent is not given and at the request of either party, a panel shall be named to aid in resolving the differences.

(3) The panel shall contain three individuals chosen as follows:

(i) One member is to be named by each party within 3 days;  
and

(ii) The third member is to be chosen by the other two members within 10 days after the request.

(4) The State Board or the panel selected shall meet with the parties to aid in resolving the differences, and, if the matter is not resolved, shall make a written report and recommendation within 30 days after the request.

(5) A copy of the report shall be sent to representatives of the public school employer and the employee organization.

(6) All costs of the impasse proceedings, including mediation, shall be shared equally by the public school employer and the employee organization.

(7) Notwithstanding any other provision of this subtitle, the public school employer shall make the final determination as to matters which have been the subject of negotiation, but this final determination] **THE BOARD SHALL WITHIN 10 CALENDAR DAYS:**

**(I) REQUEST LAST AND BEST OFFERS FROM THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION, WHICH MAY NOT INCLUDE ITEMS OR TOPICS NOT PREVIOUSLY RAISED IN THE BARGAINING PROCESS; AND**

(II) ORDER THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION TO COMMENCE MEDIATION WITHIN 14 DAYS AFTER THE BOARD'S DETERMINATION THAT AN IMPASSE HAS BEEN REACHED.

(2) THE LAST AND BEST OFFERS SHALL LIST SEPARATELY EVERY TERM OR CONDITION OF EMPLOYMENT IN DISPUTE AND THE DEMAND OF THE PARTY MAKING THE LAST AND BEST OFFER.

(3) WITHIN 5 CALENDAR DAYS AFTER AN ORDER TO MEDIATE, THE PARTIES SHALL SELECT A MEDIATOR BY:

(I) AGREEMENT; OR

(II) ALTERNATE STRIKING FROM A LIST OF SEVEN NEUTRAL PARTIES FURNISHED BY:

1. THE FEDERAL MEDIATION AND CONCILIATION SERVICE; OR

2. THE AMERICAN ARBITRATION ASSOCIATION.

(4) THE MEDIATOR SHALL CONCLUDE THE MEDIATION WITHIN 25 DAYS AFTER CONVENING THE FIRST MEDIATION SESSION.

(5) IF THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION DO NOT REACH AGREEMENT BEFORE CONCLUDING THE MEDIATION, THE MEDIATOR SHALL ISSUE A WRITTEN OFFER TO BOTH PARTIES AND THE BOARD OF SETTLEMENT OF ALL MATTERS RAISED.

(6) WITHIN 5 DAYS AFTER RECEIVING THE PROPOSED SETTLEMENT, THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION EACH SHALL NOTIFY THE MEDIATOR OF ITS INTENT TO:

(I) ACCEPT THE WRITTEN PROPOSED SETTLEMENT; ~~OR~~

(II) ACCEPT THE WRITTEN PROPOSED SETTLEMENT IN PART, AS MUTUALLY AGREED ON BY THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION; OR

~~(II)~~ (III) DECLINE THE PROPOSED SETTLEMENT AND REQUEST ARBITRATION BEFORE THE BOARD.

(7) THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION SHALL SHARE THE COSTS OF THE MEDIATOR EQUALLY.

**(8) IF EITHER PARTY DECLINES THE PROPOSED SETTLEMENT AND REQUESTS ARBITRATION, THE BOARD SHALL, WITHIN 5 CALENDAR DAYS, SET A DATE FOR AN ARBITRATION HEARING BEFORE THE BOARD.**

**(9) THE BOARD SHALL:**

**(I) OPEN THE ARBITRATION RECORD WITHIN 20 DAYS AFTER RECEIVING EITHER PARTY'S DECISION TO DECLINE THE MEDIATOR'S PROPOSAL;**

**(II) CONVENE A HEARING;**

**(III) HEAR TESTIMONY FROM AND RECEIVE SUPPORTING WRITTEN EVIDENCE, AS PROVIDED IN AN ORDER OF THE BOARD, FROM THE PUBLIC SCHOOL EMPLOYER, THE EMPLOYEE ORGANIZATION, AND THE MEDIATOR;**

**(IV) ADMINISTER OATHS TO WITNESSES DEEMED RELEVANT AND CALLED BY THE BOARD;**

**(V) ISSUE SUBPOENAS TO COMPEL THE PRODUCTION OF RELEVANT AND NONPRIVILEGED DOCUMENTS AND OTHER TANGIBLE EVIDENCE THAT WOULD ALSO BE SUBJECT TO PRODUCTION BEFORE A HEARING OR AT A HEARING UNDER TITLE 10, SUBTITLE 6, PART III OF THE STATE GOVERNMENT ARTICLE; AND**

**~~(VI) DECIDE WHETHER TO HEAR EVIDENCE OFFERED THROUGH AN ATTORNEY; AND~~**

**~~(VII)~~ RECEIVE, HEAR, AND CONSIDER ALL EVIDENCE CONSIDERED RELEVANT BY THE BOARD, WHETHER OR NOT OFFERED THROUGH AN ATTORNEY, INCLUDING:**

**1. THE WAGES, HOURS, WORKING CONDITIONS, OR OTHER TERMS AND CONDITIONS OF EMPLOYMENT OF SIMILAR PUBLIC EMPLOYEES IN COMPARABLE SURROUNDING JURISDICTIONS AND COMPARABLE JURISDICTIONS OUTSIDE THE STATE; AND**

**2. THE ABILITY OF THE PUBLIC SCHOOL EMPLOYER AND THE COUNTY SERVED BY THE PUBLIC SCHOOL EMPLOYER TO PAY ~~FROM THE COUNTY'S GENERAL FUND,~~ CONSIDERING THEIR EXISTING RESOURCES, THE COSTS OF THE FINAL OFFERS PROPOSED AND OTHER PERSONNEL COSTS.**

**(10) THE BOARD SHALL CONCLUDE THE HEARING BY ISSUING A WRITTEN ORDER WITHIN 20 DAYS AFTER THE ARBITRATION RECORD IS OPENED.**

**(11) THE BOARD SHALL ISSUE THE WRITTEN AWARD THAT SELECTS AND ADOPTS:**

**(I) THE COMPLETE FINAL OFFER OF THE PUBLIC SCHOOL EMPLOYER;**

**(II) THE COMPLETE FINAL OFFER OF THE EMPLOYEE ORGANIZATION; OR**

**(III) THE MEDIATOR'S COMPLETE OFFER OF SETTLEMENT.**

**(12) THE BOARD'S WRITTEN AWARD IS FINAL AND BINDING ON THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION.**

**(13) THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION SHALL SHARE THE COSTS OF THE HEARING EQUALLY.**

**(14) ANY NEGOTIATED PROVISION OR DECISION OF THE BOARD** is subject to the other provisions of this article concerning the fiscal relationship between the public school employer and the county commissioners and county council.

6-511.

If the fiscal authority does not approve enough funds to implement the negotiated agreement, the public school employer shall renegotiate the funds allocated for these purposes by the fiscal authority with the employee organization before the public school employer makes a final determination in accordance with the timetable and procedure established by the [State] Board.

#### **SUBTITLE 8. PUBLIC SCHOOL LABOR RELATIONS BOARD.**

6-801.

**IN THIS SUBTITLE, "BOARD" MEANS THE PUBLIC SCHOOL LABOR RELATIONS BOARD ESTABLISHED UNDER § 6-802 OF THIS SUBTITLE.**

6-802.

**THERE IS A PUBLIC SCHOOL LABOR RELATIONS BOARD ESTABLISHED AS AN INDEPENDENT UNIT OF STATE GOVERNMENT.**

6-803.

(A) THE BOARD SHALL CONSIST OF THE FOLLOWING FIVE MEMBERS APPOINTED BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE:

(1) ONE MEMBER WHO:

(I) REPRESENTS THE PUBLIC;

(II) HAS EXPERIENCE IN LABOR RELATIONS;

(III) IS NOT AN OFFICER OR EMPLOYEE OF A BOARD OF EDUCATION OR AN EMPLOYEE ORGANIZATION REPRESENTING PUBLIC SCHOOL SYSTEM EMPLOYEES;

(IV) IS NOT AN ELECTED OFFICIAL OF THE STATE, A COUNTY, OR AN EMPLOYEE ORGANIZATION REPRESENTING PUBLIC SCHOOL EMPLOYEES; AND

(V) IS KNOWN FOR OBJECTIVE AND INDEPENDENT JUDGMENT;

(2) TWO MEMBERS, INCLUDING ONE MEMBER CHOSEN FROM A LIST OF CANDIDATES SUBMITTED BY THE ORGANIZATION REPRESENTING A MAJORITY OF PUBLIC SCHOOL EMPLOYEES IN THE STATE FOR COLLECTIVE BARGAINING PURPOSES AND ANOTHER MEMBER CHOSEN FROM A LIST OF CANDIDATES SUBMITTED BY A STATEWIDE ORGANIZATION REPRESENTING PUBLIC SCHOOL EMPLOYEES IN AT LEAST ONE JURISDICTION WITHIN THE STATE FOR COLLECTIVE BARGAINING PURPOSES OTHER THAN THE MAJORITY ORGANIZATION UNDER THIS PARAGRAPH, WHO:

(I) ARE NOT EMPLOYEES OF THE STATE OR A PUBLIC SCHOOL EMPLOYEE ORGANIZATION; AND

(II) ARE KNOWN FOR OBJECTIVE AND INDEPENDENT JUDGMENT; AND

(3) TWO MEMBERS ~~OF THE EDUCATION OR BUSINESS COMMUNITY~~, CHOSEN FROM A LIST OF CANDIDATES SUBMITTED BY THE MARYLAND ASSOCIATION OF BOARDS OF EDUCATION AND THE STATE SUPERINTENDENTS ASSOCIATION OF MARYLAND, WHO:

(I) ARE NOT OFFICERS OR EMPLOYEES OF THE STATE OR COUNTY OR STATE BOARDS OF EDUCATION AND ARE NOT OFFICERS OR EMPLOYEES OF EMPLOYEE ORGANIZATIONS REPRESENTING EMPLOYEES OF PUBLIC SCHOOL SYSTEMS IN MARYLAND; AND

(II) ARE KNOWN FOR OBJECTIVE AND INDEPENDENT JUDGMENT.

(B) BEFORE TAKING OFFICE EACH MEMBER SHALL TAKE THE OATH REQUIRED BY ARTICLE I, SECTION 9 OF THE MARYLAND CONSTITUTION.

(C) THE PUBLIC SCHOOL LABOR RELATIONS BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

(D) (1) THE TERM OF A MEMBER IS 5 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON JULY 1, 2010.

(3) AT THE END OF A TERM A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REMAINDER OF THAT TERM.

(E) THE GOVERNOR MAY REMOVE A MEMBER ONLY FOR INCOMPETENCE OR MISCONDUCT.

6-804.

A MEMBER OF THE BOARD SHALL BE ENTITLED TO:

(1) COMPENSATION IN ACCORDANCE WITH THE STATE BUDGET;  
AND

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

6-805.

THE BOARD SHALL SHARE AN EXECUTIVE DIRECTOR WITH THE HIGHER EDUCATION LABOR RELATIONS BOARD AND THE STATE LABOR RELATIONS BOARD.

**6–806.**

**(A) THE BOARD SHALL ADMINISTER AND ENFORCE THE PROVISIONS OF SUBTITLES 4 AND 5 OF THIS TITLE.**

**(B) THE BOARD MAY:**

**(1) ADOPT REGULATIONS, GUIDELINES, AND POLICIES TO CARRY OUT THE RIGHTS AND RESPONSIBILITIES OF THE BOARD UNDER THIS TITLE; AND**

**(2) MAKE RECOMMENDATIONS FOR LEGISLATIVE ACTION REGARDING THE OPERATION OF THIS TITLE.**

**6–807.**

**(A) IN DECIDING MATTERS COVERED UNDER THE PROVISIONS OF SUBTITLES 4 AND 5 OF THIS TITLE, THE BOARD:**

**(1) MAY:**

**(I) CONDUCT HEARINGS;**

**(II) SUBPOENA WITNESSES AND DOCUMENTS;**

**(III) ADMINISTER OATHS;**

**(IV) TAKE THE TESTIMONY OR DEPOSITION OF A PERSON UNDER OATH; AND**

**(V) CONDUCT INVESTIGATIONS; AND**

**(2) SHALL DECIDE CONTROVERSIES AND DISPUTES.**

**(B) (1) IF A PERSON FAILS TO COMPLY WITH AN ORDER ISSUED BY THE BOARD, A MEMBER OF THE BOARD MAY PETITION THE CIRCUIT COURT TO ORDER THE PERSON TO COMPLY WITH THE BOARD'S ORDER.**

**(2) THE BOARD MAY NOT BE REQUIRED TO POST BOND IN AN ACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

**(C) EACH HEARING AND DETERMINATION OF AN APPEAL OR COMPLAINT BY THE BOARD IS A CONTESTED CASE, SUBJECT TO THE PROVISIONS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.**

**(D) A PRIOR ORDER, ACTION, OR OPINION ISSUED BY THE STATE BOARD BEFORE THE ENACTMENT OF THIS SECTION MAY BE CONSIDERED AS PRECEDENT IN MATTERS ARISING AFTER THE ENACTMENT OF THIS SECTION, BUT IT IS NOT BINDING ON THE BOARD.**

**Article – State Personnel and Pensions**

3–204.

(a) (1) The State Labor Relations Board, **THE PUBLIC SCHOOL LABOR RELATIONS BOARD**, and the State Higher Education Labor Relations Board jointly shall appoint an Executive Director of the boards.

(2) The Executive Director:

(i) is responsible to and serves at the pleasure of the boards;  
and

(ii) is entitled to the salary provided in the State budget.

(b) The Executive Director shall perform the duties that the boards assign, including:

(1) operating the office of the boards; and

(2) keeping the official records of the boards.

(c) The Executive Director may hire any staff necessary to carry out the provisions of this subtitle.

(d) (1) With approval of the boards, the Executive Director may employ professional consultants.

(2) Each professional consultant serves at the pleasure of the Executive Director.

**SECTION 2. AND BE IT FURTHER ENACTED,** That the terms of the members of the Public School Labor Relations Board shall expire as follows:

(a) one member in 2012;

(b) two members in 2013; and

(c) two members in 2014.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any negotiations requested or entered into before the effective date of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That nothing in this Act may be construed to prevent a party from appealing a final decision of the Public School Labor Relations Board to a circuit court.

SECTION 5. AND BE IT FURTHER ENACTED, That, on or before July 1, 2014, the Public School Labor Relations Board shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the implementation of this Act.

SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010. It shall remain effective for a period of 5 years and, at the end of June 30, 2015, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

**Approved by the Governor, May 4, 2010.**

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## Chapter 326

(Senate Bill 605)

AN ACT concerning

### **Angel's Law – Foster Care and Child Care – ~~Cordless~~ Window Coverings**

FOR the purpose of requiring new and replacement window coverings on or after a certain date to be cordless in foster homes, family day care homes, and child care centers; requiring certain existing window coverings to meet certain minimum standards in foster homes, family day care homes, and child care centers; authorizing the appropriate agency to require the replacement of certain window coverings under certain circumstances; requiring the Social Services Administration to adopt certain regulations relating to ~~cordless~~ window coverings for foster homes; requiring the State Department of Education to adopt certain regulations relating to ~~cordless~~ window coverings for family day care homes; requiring the State Superintendent of Schools to adopt certain regulations relating to ~~cordless~~ window coverings for child care centers; defining certain terms; and generally relating to ~~cordless~~ window coverings for foster homes, family day care homes, and child care centers.

BY adding to  
Article – Family Law

Section 5-505 and 5-573(b)(11)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
Article – Family Law  
Section 5-525(j), 5-551(c)(1), and 5-573(b)(9) and (10)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,  
Article – Family Law  
Section 5-551(a) and (b) and 5-573(a)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 Supplement)

#### Preamble

WHEREAS, In November 2009, a Maryland foster child was accidentally strangled after his head became entangled in window blind cords; and

WHEREAS, The death of a second Maryland toddler in November 2009 prompted federal officials to issue a safety alert about the risks of window covering cords; and

WHEREAS, Approximately one child a month in the United States dies from strangling in cords from window blinds or shades; and

WHEREAS, Since 1990, there have been approximately 200 infant and child deaths nationwide due to cords from window coverings; and

WHEREAS, The United States Consumer Product Safety Commission now recommends using only cordless window treatments in any home where children live or visit; and

WHEREAS, Window coverings with cords are considered one of the top five hidden household safety hazards; and

WHEREAS, In one of the largest recalls in history, the Consumer Product Safety Commission called for the repair of nearly every Roman shade and blind amid growing concerns over child strangulation; now, therefore,

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

#### Article – Family Law

5-505.

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

(2) “BEADED CHAIN” MEANS A SERIES OF SMALL SPHERES, EQUALLY SPACED ON A CORD OR CONNECTED BY METAL SHAFTS USED TO RAISE AND LOWER A WINDOW COVERING.

(3) “CORD LOOP” MEANS A CURVING OR DOUBLING OF A ~~BEAD~~ BEADED CHAIN OR CORD TO FORM A CLOSED LOOP.

~~(4) “CORD STOP” MEANS A DEVICE THAT RESTRICTS THE CORD FROM PASSING THROUGH A CORD LOCK IN THE DIRECTION THAT WOULD OTHERWISE SHORTEN THE LIFT CORD AND ALLOW FOR A LOOP TO FORM WITH THE CORRESPONDING INNER CORD.~~

~~(5)~~ (4) “CORDLESS WINDOW COVERING” MEANS:

(I) A HORIZONTAL BLIND OR CELLULAR SHADE THAT HAS NO DRAW CORD AND THE INTERNAL LIFT CORD RUNS IN THE SLATS OF THE HORIZONTAL BLIND SO THAT THE CORD IS INCAPABLE OF FORMING A LOOP GREATER THAN 7.25 INCHES;

(II) A ROMAN SHADE, ROLL-UP BLIND, OR WOVEN SHADE THAT HAS NO DRAW CORD AND THE LIFT CORD IS COMPLETELY ENCLOSED SO THAT IT IS NOT ACCESSIBLE;

(III) A VERTICAL BLIND THAT HAS A WAND AS ITS OPERATING MECHANISM AND DOES NOT CONTAIN ANY BEADED CHAINS, CORDED PULLEYS, OR OTHER CORD LOOP OPERATING MECHANISMS; AND

(IV) A ROLLER SHADE THAT DOES NOT CONTAIN A CORD OR BEADED CHAIN.

~~(6)~~ (5) “DRAW CORD” MEANS ANY FORM OF ROPE, STRAP, OR STRING USED TO RAISE OR LOWER A WINDOW COVERING.

~~(7) “HEAD RAIL” MEANS AN ELEMENT OF A WINDOW COVERING THAT:~~

~~(I) IS ATTACHED TO THE INSTALLATION BRACKETS; AND~~

~~(H) ENCLOSES THE OPERATIONAL COMPONENTS OF THE WINDOW COVERING.~~

~~(8)~~ (6) "INTERNAL LIFT CORD" MEANS A CORD THAT IS CONTAINED INSIDE THE BODY AND RAILS OF THE BLIND OR SHADE.

~~(9) "PULL CORD" MEANS AN EXTERNAL CHAIN, ROPE, STRAP, OR STRING USED TO RAISE AND LOWER OR OPEN AND CLOSE WINDOW COVERINGS.~~

~~(10) "TASSEL" MEANS A DEVICE USED TO COVER THE END OF A FREE HANGING CORD OF A WINDOW COVERING.~~

~~(11)~~ (7) "WAND" MEANS A ROD USED TO:

- (I) ROTATE A VERTICAL BLIND; OR
- (II) TILT A HORIZONTAL BLIND.

(B) THIS SECTION APPLIES ONLY TO FOSTER HOMES, FAMILY DAY CARE HOMES, AND CHILD CARE CENTERS IN THE STATE.

(C) (1) ALL NEW AND REPLACEMENT WINDOW COVERINGS INSTALLED ON OR AFTER OCTOBER 1, 2010, SHALL BE CORDLESS WINDOW COVERINGS.

(2) ALL WINDOW COVERINGS IN PLACE BEFORE OCTOBER 1, 2010, SHALL MEET ~~THE FOLLOWING MINIMUM STANDARDS:~~

~~(I) ROMAN SHADES, ROLL-UP SHADES, WOVEN SHADES, AND ALL WINDOW COVERINGS WITH EXPOSED AND UNSECURED CORDS CAPABLE OF FORMING A LOOP OF GREATER THAN 7.25 INCHES MAY NOT BE USED;~~

~~(II) HORIZONTAL BLINDS, CELLULAR SHADES, AND ALL WINDOW COVERINGS THAT HAVE DRAW CORDS FOR THEIR OPERATION SHALL:~~

~~1. HAVE THE DRAW CORD CUT WITHIN 7 TO 10 INCHES OF THE HEAD RAIL OF THE PRODUCT WHEN THE WINDOW COVERING IS IN THE CLOSED AND FULLY EXTENDED POSITION;~~

~~2. HAVE THE PULL CORD MAINTAINED TO BE FREE OF KNOTS AND TANGLING, AND HAVE ITS OWN SEPARATED TASSEL OR BREAKAWAY DEVICE;~~

~~3. HAVE A CORD CLEAT INSTALLED WITHIN 10 INCHES OF THE HEAD RAIL OF THE PRODUCT AND UTILIZED AT ALL TIMES WHEN THE WINDOW COVERING IS IN THE RAISED POSITION;~~

~~4. HAVE CORD STOPS ON THE DRAW CORD OF ALL WINDOW COVERINGS AND POSITIONED WITHIN 2 TO 4 INCHES OF THE HEAD RAIL WHEN THE WINDOW COVERING IS IN THE CLOSED AND FULLY EXTENDED POSITION; AND~~

~~5. HAVE ALL EXCESS HORIZONTAL BLIND SLATS REMOVED SO AS TO FIT WITHIN THE CONFINES OF THE WINDOW OPENING WITHOUT THE ACCUMULATION OF EXTRA BLIND SLATS; AND~~

~~(III) FOR VERTICAL BLINDS AND OTHER WINDOW COVERING PRODUCTS WITH LOOPS UTILIZED IN THEIR OPERATION, THE LOOPS SHALL BE SECURED UTILIZING DEVICES THAT SHALL BE FIRMLY AFFIXED SO THAT THE CORD LOOP IS SECURED AND THE CORD IS TIGHT AT ALL TIMES. MINIMUM SAFETY STANDARDS ESTABLISHED IN REGULATIONS JOINTLY ADOPTED BY THE DEPARTMENT AND THE STATE DEPARTMENT OF EDUCATION THAT INCLUDE STANDARDS FOR:~~

~~(I) ROMAN SHADES, ROLL-UP SHADES, WOVEN SHADES, AND ALL WINDOW COVERINGS WITH EXPOSED AND UNSECURED CORDS;~~

~~(II) HORIZONTAL BLINDS, CELLULAR SHADES, AND ALL WINDOW COVERINGS THAT HAVE DRAW CORDS FOR THEIR OPERATION; AND~~

~~(III) VERTICAL BLINDS AND OTHER WINDOW COVERING PRODUCTS WITH LOOPS UTILIZED IN THEIR OPERATION.~~

(3) IF A PERSON FAILS TO COMPLY WITH THE REQUIREMENTS OF SUBSECTION (C)(2) OF THIS SECTION, THE APPROPRIATE AGENCY MAY REQUIRE REPLACEMENT OF EXISTING WINDOW COVERINGS WITH CORDLESS WINDOW COVERINGS.

5-525.

(j) The Administration shall adopt regulations that:

(1) establish goals and specify permanency planning procedures that:

(i) maximize the prospect for reducing length of stay in out-of-home placement in the best interests of children; and

(ii) implement the intent of this section;

(2) prohibit a local department from seeking the custody or guardianship of a child for placement in foster care solely because the child's parent or guardian lacks shelter or has a disability or solely because the child's parents are financially unable to provide treatment or care for a child with a developmental disability or mental illness;

(3) specify the compelling reasons for placing a child in a local jurisdiction other than the local jurisdiction where the child's parent or guardian resides, under subsection (f)(3)(ii) of this section;

(4) require the local department to make appropriate referrals to emergency shelter and other services for families with children who lack shelter;

(5) establish criteria for investigating and approving foster homes, **INCLUDING REQUIREMENTS FOR ~~CORDESS~~ WINDOW COVERINGS IN ACCORDANCE WITH § 5-505 OF THIS SUBTITLE**; and

(6) for cases in which the permanency plan recommended by the local department or under consideration by the court includes appointment of a guardian and rescission of the local department's custody or guardianship of a child:

(i) establish criteria for investigating and determining the suitability of prospective relative or nonrelative guardians; and

(ii) require the filing of a report with the court as provided in § 3-819.2 of the Courts Article.

5-551.

(a) The Department shall adopt regulations that relate to the registration of family day care homes.

(b) So far as practicable, the regulations shall be uniform with the rules and regulations adopted by other State agencies as those rules and regulations relate to other types of day care.

(c) At a minimum, the regulations of the Department shall provide for:

(1) minimum standards of environmental health and safety, including provisions for:

(i) adequate and safe physical surroundings, **INCLUDING REQUIREMENTS FOR ~~CORDESS~~ WINDOW COVERINGS IN ACCORDANCE WITH § 5-505 OF THIS SUBTITLE**;

- (ii) the physical and mental health of day care providers; and
- (iii) investigation of any criminal record of a day care provider;

5–573.

(a) The State Superintendent shall adopt rules and regulations for licensing and operating child care centers.

(b) These rules and regulations shall:

(9) (i) require that a child care center that receives notice of a contaminated drinking water supply from the child care center's supplier of water, in accordance with § 9–410 of the Environment Article or otherwise, send notice of the drinking water contamination to the parent or legal guardian of each child attending the child care center; and

(ii) require that the notice sent by the child care center shall:

1. be sent within 10 business days after receipt of the notice of contamination from the child care center's water supplier;

2. be in writing;

3. identify the contaminants and their levels in the center's water supply; and

4. describe the child care center's plan for dealing with the water contamination problem until the child care center's water is determined by the appropriate authority to be safe for consumption; [and]

(10) (i) require a child care center to have a written emergency preparedness plan for emergency situations that require evacuation, sheltering in place, or other protection of children, such as in the event of fire, natural disaster, or other threatening situation that may pose a health or safety hazard to the children in the child care center;

(ii) require the plan under item (i) of this item to include:

1. a designated relocation site and evacuation route;

2. procedures for notifying parents or other adults responsible for the child of the relocation;

3. procedures to address the needs of individual children, including children with special needs;

4. procedures for the reassignment of staff duties during an emergency, as appropriate; and

5. procedures for communicating with local emergency management officials or other appropriate State or local authorities; and

(iii) require a child care center to train staff and ensure that staff are familiar with the plan; AND

**(11) REQUIRE A CHILD CARE CENTER TO HAVE ~~CORDLESS~~ WINDOW COVERINGS IN ACCORDANCE WITH § 5-505 OF THIS SUBTITLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 327

(House Bill 646)

AN ACT concerning

### Angel's Law – Foster Care and Child Care – ~~Cordless~~ Window Coverings

FOR the purpose of requiring new and replacement window coverings on or after a certain date to be cordless in foster homes, family day care homes, and child care centers; requiring certain existing window coverings to meet certain minimum standards in foster homes, family day care homes, and child care centers; authorizing the appropriate agency to require the replacement of certain window coverings under certain circumstances; requiring the Social Services Administration to adopt certain regulations relating to ~~cordless~~ window coverings for foster homes; requiring the State Department of Education to adopt certain regulations relating to ~~cordless~~ window coverings for family day care homes; requiring the State Superintendent of Schools to adopt certain regulations relating to ~~cordless~~ window coverings for child care centers; defining certain terms; and generally relating to ~~cordless~~ window coverings for foster homes, family day care homes, and child care centers.

BY adding to

Article – Family Law

Section 5-505 and 5-573(b)(11)

Annotated Code of Maryland

(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
Article – Family Law  
Section 5–525(j), 5–551(c)(1), and 5–573(b)(9) and (10)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,  
Article – Family Law  
Section 5–551(a) and (b) and 5–573(a)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 Supplement)

#### Preamble

WHEREAS, In November 2009, a Maryland foster child was accidentally strangled after his head became entangled in window blind cords; and

WHEREAS, The death of a second Maryland toddler in November 2009 prompted federal officials to issue a safety alert about the risks of window covering cords; and

WHEREAS, Approximately one child a month in the United States dies from strangling in cords from window blinds or shades; and

WHEREAS, Since 1990, there have been approximately 200 infant and child deaths nationwide due to cords from window coverings; and

WHEREAS, The United States Consumer Product Safety Commission now recommends using only cordless window treatments in any home where children live or visit; and

WHEREAS, Window coverings with cords are considered one of the top five hidden household safety hazards; and

WHEREAS, In one of the largest recalls in history, the Consumer Product Safety Commission called for the repair of nearly every Roman shade and blind amid growing concerns over child strangulation; now, therefore,

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

#### Article – Family Law

#### 5–505.

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

(2) "BEADED CHAIN" MEANS A SERIES OF SMALL SPHERES, EQUALLY SPACED ON A CORD OR CONNECTED BY METAL SHAFTS USED TO RAISE AND LOWER A WINDOW COVERING.

(3) "CORD LOOP" MEANS A CURVING OR DOUBLING OF A ~~BEAD~~ BEADED CHAIN OR CORD TO FORM A CLOSED LOOP.

~~(4) "CORD STOP" MEANS A DEVICE THAT RESTRICTS THE CORD FROM PASSING THROUGH A CORD LOCK IN THE DIRECTION THAT WOULD OTHERWISE SHORTEN THE LIFT CORD AND ALLOW FOR A LOOP TO FORM WITH THE CORRESPONDING INNER CORD.~~

~~(5)~~ (4) "CORDLESS WINDOW COVERING" MEANS:

(I) A HORIZONTAL BLIND OR CELLULAR SHADE THAT HAS NO DRAW CORD AND THE INTERNAL LIFT CORD RUNS IN THE SLATS OF THE HORIZONTAL BLIND SO THAT THE CORD IS INCAPABLE OF FORMING A LOOP GREATER THAN 7.25 INCHES;

(II) A ROMAN SHADE, ROLL-UP BLIND, OR WOVEN SHADE THAT HAS NO DRAW CORD AND THE LIFT CORD IS COMPLETELY ENCLOSED SO THAT IT IS NOT ACCESSIBLE;

(III) A VERTICAL BLIND THAT HAS A WAND AS ITS OPERATING MECHANISM AND DOES NOT CONTAIN ANY BEADED CHAINS, CORDED PULLEYS, OR OTHER CORD LOOP OPERATING MECHANISMS; AND

(IV) A ROLLER SHADE THAT DOES NOT CONTAIN A CORD OR BEADED CHAIN.

~~(6)~~ (5) "DRAW CORD" MEANS ANY FORM OF ROPE, STRAP, OR STRING USED TO RAISE OR LOWER A WINDOW COVERING.

~~(7) "HEAD RAIL" MEANS AN ELEMENT OF A WINDOW COVERING THAT:~~

~~(I) IS ATTACHED TO THE INSTALLATION BRACKETS; AND~~

~~(II) ENCLOSES THE OPERATIONAL COMPONENTS OF THE WINDOW COVERING.~~

~~(8)~~ (6) "INTERNAL LIFT CORD" MEANS A CORD THAT IS CONTAINED INSIDE THE BODY AND RAILS OF THE BLIND OR SHADE.

~~(9) “PULL CORD” MEANS AN EXTERNAL CHAIN, ROPE, STRAP, OR STRING USED TO RAISE AND LOWER OR OPEN AND CLOSE WINDOW COVERINGS.~~

~~(10) “TASSEL” MEANS A DEVICE USED TO COVER THE END OF A FREE HANGING CORD OF A WINDOW COVERING.~~

~~(11)~~ (7) “WAND” MEANS A ROD USED TO:

(I) ROTATE A VERTICAL BLIND; OR

(II) TILT A HORIZONTAL BLIND.

(B) THIS SECTION APPLIES ONLY TO FOSTER HOMES, FAMILY DAY CARE HOMES, AND CHILD CARE CENTERS IN THE STATE.

(C) (1) ALL NEW AND REPLACEMENT WINDOW COVERINGS INSTALLED ON OR AFTER OCTOBER 1, 2010, SHALL BE CORDLESS WINDOW COVERINGS.

(2) ALL WINDOW COVERINGS IN PLACE BEFORE OCTOBER 1, 2010, SHALL MEET ~~THE FOLLOWING MINIMUM STANDARDS:~~

~~(I) ROMAN SHADES, ROLL UP SHADES, WOVEN SHADES, AND ALL WINDOW COVERINGS WITH EXPOSED AND UNSECURED CORDS CAPABLE OF FORMING A LOOP OF GREATER THAN 7.25 INCHES MAY NOT BE USED;~~

~~(II) HORIZONTAL BLINDS, CELLULAR SHADES, AND ALL WINDOW COVERINGS THAT HAVE DRAW CORDS FOR THEIR OPERATION SHALL:~~

~~1. HAVE THE DRAW CORD CUT WITHIN 7 TO 10 INCHES OF THE HEAD RAIL OF THE PRODUCT WHEN THE WINDOW COVERING IS IN THE CLOSED AND FULLY EXTENDED POSITION;~~

~~2. HAVE THE PULL CORD MAINTAINED TO BE FREE OF KNOTS AND TANGLING, AND HAVE ITS OWN SEPARATED TASSEL OR BREAKAWAY DEVICE;~~

~~3. HAVE A CORD CLEAT INSTALLED WITHIN 10 INCHES OF THE HEAD RAIL OF THE PRODUCT AND UTILIZED AT ALL TIMES WHEN THE WINDOW COVERING IS IN THE RAISED POSITION;~~

~~4. HAVE CORD STOPS ON THE DRAW CORD OF ALL WINDOW COVERINGS AND POSITIONED WITHIN 2 TO 4 INCHES OF THE HEAD RAIL WHEN THE WINDOW COVERING IS IN THE CLOSED AND FULLY EXTENDED POSITION; AND~~

~~5. HAVE ALL EXCESS HORIZONTAL BLIND SLATS REMOVED SO AS TO FIT WITHIN THE CONFINES OF THE WINDOW OPENING WITHOUT THE ACCUMULATION OF EXTRA BLIND SLATS; AND~~

~~(III) FOR VERTICAL BLINDS AND OTHER WINDOW COVERING PRODUCTS WITH LOOPS UTILIZED IN THEIR OPERATION, THE LOOPS SHALL BE SECURED UTILIZING DEVICES THAT SHALL BE FIRMLY AFFIXED SO THAT THE CORD LOOP IS SECURED AND THE CORD IS TIGHT AT ALL TIMES. MINIMUM SAFETY STANDARDS ESTABLISHED IN REGULATIONS JOINTLY ADOPTED BY THE DEPARTMENT AND THE STATE DEPARTMENT OF EDUCATION THAT INCLUDE STANDARDS FOR:~~

~~(I) ROMAN SHADES, ROLL-UP SHADES, WOVEN SHADES, AND ALL WINDOW COVERINGS WITH EXPOSED AND UNSECURED CORDS;~~

~~(II) HORIZONTAL BLINDS, CELLULAR SHADES, AND ALL WINDOW COVERINGS THAT HAVE DRAW CORDS FOR THEIR OPERATION; AND~~

~~(III) VERTICAL BLINDS AND OTHER WINDOW COVERING PRODUCTS WITH LOOPS UTILIZED IN THEIR OPERATION.~~

~~(3) IF A PERSON FAILS TO COMPLY WITH THE REQUIREMENTS OF SUBSECTION (C)(2) OF THIS SECTION, THE APPROPRIATE AGENCY MAY REQUIRE REPLACEMENT OF EXISTING WINDOW COVERINGS WITH CORDLESS WINDOW COVERINGS.~~

5-525.

(j) The Administration shall adopt regulations that:

(1) establish goals and specify permanency planning procedures that:

(i) maximize the prospect for reducing length of stay in out-of-home placement in the best interests of children; and

(ii) implement the intent of this section;

(2) prohibit a local department from seeking the custody or guardianship of a child for placement in foster care solely because the child's parent or guardian lacks shelter or has a disability or solely because the child's parents are

financially unable to provide treatment or care for a child with a developmental disability or mental illness;

(3) specify the compelling reasons for placing a child in a local jurisdiction other than the local jurisdiction where the child's parent or guardian resides, under subsection (f)(3)(ii) of this section;

(4) require the local department to make appropriate referrals to emergency shelter and other services for families with children who lack shelter;

(5) establish criteria for investigating and approving foster homes, **INCLUDING REQUIREMENTS FOR ~~CORDLESS~~ WINDOW COVERINGS IN ACCORDANCE WITH § 5-505 OF THIS SUBTITLE**; and

(6) for cases in which the permanency plan recommended by the local department or under consideration by the court includes appointment of a guardian and rescission of the local department's custody or guardianship of a child:

(i) establish criteria for investigating and determining the suitability of prospective relative or nonrelative guardians; and

(ii) require the filing of a report with the court as provided in § 3-819.2 of the Courts Article.

5-551.

(a) The Department shall adopt regulations that relate to the registration of family day care homes.

(b) So far as practicable, the regulations shall be uniform with the rules and regulations adopted by other State agencies as those rules and regulations relate to other types of day care.

(c) At a minimum, the regulations of the Department shall provide for:

(1) minimum standards of environmental health and safety, including provisions for:

(i) adequate and safe physical surroundings, **INCLUDING REQUIREMENTS FOR ~~CORDLESS~~ WINDOW COVERINGS IN ACCORDANCE WITH § 5-505 OF THIS SUBTITLE**;

(ii) the physical and mental health of day care providers; and

(iii) investigation of any criminal record of a day care provider;

5-573.

(a) The State Superintendent shall adopt rules and regulations for licensing and operating child care centers.

(b) These rules and regulations shall:

(9) (i) require that a child care center that receives notice of a contaminated drinking water supply from the child care center's supplier of water, in accordance with § 9-410 of the Environment Article or otherwise, send notice of the drinking water contamination to the parent or legal guardian of each child attending the child care center; and

(ii) require that the notice sent by the child care center shall:

1. be sent within 10 business days after receipt of the notice of contamination from the child care center's water supplier;

2. be in writing;

3. identify the contaminants and their levels in the center's water supply; and

4. describe the child care center's plan for dealing with the water contamination problem until the child care center's water is determined by the appropriate authority to be safe for consumption; [and]

(10) (i) require a child care center to have a written emergency preparedness plan for emergency situations that require evacuation, sheltering in place, or other protection of children, such as in the event of fire, natural disaster, or other threatening situation that may pose a health or safety hazard to the children in the child care center;

(ii) require the plan under item (i) of this item to include:

1. a designated relocation site and evacuation route;

2. procedures for notifying parents or other adults responsible for the child of the relocation;

3. procedures to address the needs of individual children, including children with special needs;

4. procedures for the reassignment of staff duties during an emergency, as appropriate; and

5. procedures for communicating with local emergency management officials or other appropriate State or local authorities; and

(iii) require a child care center to train staff and ensure that staff are familiar with the plan; AND

**(11) REQUIRE A CHILD CARE CENTER TO HAVE ~~CORDLESS~~ WINDOW COVERINGS IN ACCORDANCE WITH § 5-505 OF THIS SUBTITLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 328**

**(Senate Bill 652)**

AN ACT concerning

### **Property Tax Credit – Habitat for Humanity**

FOR the purpose of authorizing the Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation to grant, by law, a property tax credit against the county or municipal corporation property tax imposed on certain real property owned by Habitat for Humanity; requiring Habitat for Humanity to submit an annual report to certain governing bodies under certain circumstances; authorizing the Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation to set, by law, the amount, terms, scope, and duration of the tax credit and to provide for any other provision necessary to carry out the tax credit; providing for the application of this Act; and generally relating to authorization for a property tax credit for certain real property owned by Habitat for Humanity.

BY adding to

Article – Tax – Property

Section 9-252

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

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

**Article – Tax – Property**

9-252.

(A) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION MAY GRANT, BY LAW, A PROPERTY TAX CREDIT UNDER THIS SECTION AGAINST THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX THAT IS IMPOSED ON REAL PROPERTY THAT IS:

(1) OWNED BY HABITAT FOR HUMANITY WITH THE INTENTION OF RELINQUISHING OWNERSHIP IN THE IMMEDIATE FUTURE;

(2) USED EXCLUSIVELY FOR THE PURPOSE OF REHABILITATION AND TRANSFER TO A PRIVATE OWNER; AND

(3) NOT OCCUPIED BY ADMINISTRATIVE OR WAREHOUSE BUILDINGS OWNED BY HABITAT FOR HUMANITY.

(B) IF THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION GRANTS A PROPERTY TAX CREDIT UNDER THIS SECTION, HABITAT FOR HUMANITY SHALL SUBMIT AN ANNUAL WRITTEN REPORT TO THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION GRANTING THE TAX CREDIT DOCUMENTING:

(1) ALL OF HABITAT FOR HUMANITY'S REAL PROPERTY HOLDINGS IN THE JURISDICTION GRANTING THE TAX CREDIT; AND

(2) ALL TRANSACTIONS INVOLVING HABITAT FOR HUMANITY'S REAL PROPERTY HOLDINGS IN THE JURISDICTION GRANTING THE TAX CREDIT.

(C) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION MAY, BY LAW:

(1) SET THE AMOUNT, TERMS, SCOPE, AND DURATION OF A CREDIT GRANTED UNDER SUBSECTION (A) OF THIS SECTION; AND

(2) ADOPT ANY OTHER PROVISION NECESSARY TO ADMINISTER A CREDIT GRANTED UNDER SUBSECTION (A) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010, and shall be applicable to all taxable years beginning after June 30, 2010.

Approved by the Governor, May 4, 2010.

**Chapter 329****(House Bill 850)**

AN ACT concerning

**Property Tax Credit – Habitat for Humanity**

FOR the purpose of authorizing the Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation to grant, by law, a property tax credit against the county or municipal corporation property tax imposed on certain real property owned by Habitat for Humanity; requiring Habitat for Humanity to submit an annual report to certain governing bodies under certain circumstances; authorizing the Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation to set, by law, the amount, terms, scope, and duration of the tax credit and to provide for any other provision necessary to carry out the tax credit; providing for the application of this Act; and generally relating to authorization for a property tax credit for certain real property owned by Habitat for Humanity.

BY adding to

Article – Tax – Property

Section 9–252

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

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

**Article – Tax – Property****9–252.**

**(A) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION MAY GRANT, BY LAW, A PROPERTY TAX CREDIT UNDER THIS SECTION AGAINST THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX THAT IS IMPOSED ON REAL PROPERTY THAT IS:**

**(1) OWNED BY HABITAT FOR HUMANITY WITH THE INTENTION OF RELINQUISHING OWNERSHIP IN THE IMMEDIATE FUTURE;**

**(2) USED EXCLUSIVELY FOR THE PURPOSE OF REHABILITATION AND TRANSFER TO A PRIVATE OWNER; AND**

**(3) NOT OCCUPIED BY ADMINISTRATIVE OR WAREHOUSE BUILDINGS OWNED BY HABITAT FOR HUMANITY.**

**(B) IF THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION GRANTS A PROPERTY TAX CREDIT UNDER THIS SECTION, HABITAT FOR HUMANITY SHALL SUBMIT AN ANNUAL WRITTEN REPORT TO THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION GRANTING THE TAX CREDIT DOCUMENTING:**

**(1) ALL OF HABITAT FOR HUMANITY'S REAL PROPERTY HOLDINGS IN THE JURISDICTION GRANTING THE TAX CREDIT; AND**

**(2) ALL TRANSACTIONS INVOLVING HABITAT FOR HUMANITY'S REAL PROPERTY HOLDINGS IN THE JURISDICTION GRANTING THE TAX CREDIT.**

**(C) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION MAY, BY LAW:**

**(1) SET THE AMOUNT, TERMS, SCOPE, AND DURATION OF A CREDIT GRANTED UNDER SUBSECTION (A) OF THIS SECTION; AND**

**(2) ADOPT ANY OTHER PROVISION NECESSARY TO ADMINISTER A CREDIT GRANTED UNDER SUBSECTION (A) OF THIS SECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010, and shall be applicable to all taxable years beginning after June 30, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 330**

**(Senate Bill 660)**

AN ACT concerning

**State Personnel – Natural Resources Law Enforcement Officers –  
Appointment to Major or Lieutenant Colonel**

FOR the purpose of authorizing the Secretary of Natural Resources to appoint a certain law enforcement officer to the rank of Major or Lieutenant Colonel

without examination; establishing that a certain law enforcement officer appointed in accordance with certain provisions of this Act continues to serve at the pleasure of the Secretary; providing that on termination of a certain appointment, the Secretary may return a certain law enforcement officer ~~may return~~ to a certain ~~rank~~ vacant position or ~~be promoted~~ promote the law enforcement officer to a certain higher rank under certain circumstances; establishing that in cases of inconsistency between certain provisions of this Act and certain other provisions of law, certain provisions of this Act shall control as to certain matters; making certain conforming changes; providing for the application of certain provisions of this Act; and generally relating to law enforcement officers of the Department of Natural Resources.

BY adding to

Article – Natural Resources  
Section 1–107  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources  
Section 1–203 and 5–206  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

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

#### Article – Natural Resources

#### 1–107.

**(A) THIS SECTION APPLIES TO NATURAL RESOURCES POLICE OFFICERS AND EMPLOYEES COMMISSIONED AS LAW ENFORCEMENT OFFICERS OF THE STATE FOREST AND PARK SERVICE.**

**(B) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE SECRETARY MAY APPOINT WITHOUT EXAMINATION:**

**(I) A LAW ENFORCEMENT OFFICER WHO HOLDS A COMMISSIONED RANK TO THE RANK OF MAJOR; AND**

**(II) A LAW ENFORCEMENT OFFICER WHO HOLDS A COMMISSIONED RANK OF NOT LESS THAN CAPTAIN TO THE RANK OF LIEUTENANT COLONEL.**

(2) A LAW ENFORCEMENT OFFICER APPOINTED IN ACCORDANCE WITH THIS SUBSECTION CONTINUES TO SERVE AT THE PLEASURE OF THE SECRETARY.

(3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ON TERMINATION OF AN APPOINTMENT UNDER THIS SUBSECTION, THE ~~LAW ENFORCEMENT OFFICER~~ SECRETARY MAY:

(I) ~~RETURN TO THE RANK HELD BEFORE THE APPOINTMENT~~ THE LAW ENFORCEMENT OFFICER TO A VACANT LAW ENFORCEMENT OFFICER POSITION; OR

(II) ~~BE PROMOTED~~ PROMOTE THE LAW ENFORCEMENT OFFICER TO A HIGHER RANK TO WHICH THE LAW ENFORCEMENT OFFICER BECAME ELIGIBLE FOR PROMOTION DURING THE APPOINTMENT.

(C) IN CASES OF INCONSISTENCY BETWEEN THIS SECTION AND THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE, THE PROVISIONS OF THIS SECTION SHALL CONTROL AS TO ALL MATTERS RELATING TO THE APPOINTMENT OF A LAW ENFORCEMENT OFFICER OF THE DEPARTMENT TO THE RANK OF MAJOR OR LIEUTENANT COLONEL.

1-203.

(a) The Secretary shall, within the limits of any appropriation made for this purpose, appoint Natural Resources police officers as the Secretary deems necessary for the efficient administration of the Natural Resources Police Force. All appointments shall be made from a list of eligible persons prepared in accordance with the provisions of the State Personnel and Pensions Article.

(b) The Secretary shall issue to each person appointed as Natural Resources police officer a commission and badge stating "Natural Resources Police Officer".

(c) Except when on detective duty, every Natural Resources police officer shall wear in plain view a "Natural Resources Police Officer" badge when acting in his official capacity.

(d) The badge is property of the State, and upon the termination of a commission of any Natural Resources police officer, it shall be returned with the commission to the Secretary.

(e) All Natural Resources police officers, including persons appointed for training prior to regular assignment as a Natural Resources police officer, shall remain in a probationary status for a period of 2 years from the date of initial appointment to the Natural Resources Police Force. The Secretary may discharge an

employee in probationary status for any cause which is deemed sufficient in the sole discretion of the Secretary.

(f) **[In] SUBJECT TO § 1–107 OF THIS ARTICLE, IN** cases of inconsistency between this subtitle and the provisions of the State Personnel and Pensions Article, the provisions of this subtitle shall control as to all matters relating to the Natural Resources Police Force.

5–206.

(a) The Secretary may commission any person to act as a forest or park warden, subject to removal at any time at the pleasure of the Secretary. While holding office, a warden has and may exercise the authority and power of a Natural Resources police officer or a law enforcement officer as provided in his commission so far as arresting and prosecuting persons for violations of any forest or park laws or of the laws, rules and regulations enacted for the protection of the State forestry reservations, State parks, historic monuments, recreation areas, or for the protection of fish and game.

(b) The Secretary shall, within the limits of any appropriation made for this purpose, commission forest, park, and wildlife rangers as the Secretary deems necessary for the enforcement of laws and regulations as provided in this subsection. All appointments shall be made from a list of eligible persons prepared in accordance with the provisions of the State Personnel and Pensions Article. An employee so commissioned and assigned law enforcement duties has and may exercise the powers of a Natural Resources police officer or a law enforcement officer of the State. These powers may be exercised upon:

- (1) Properties owned by the State and managed by the Department;
- (2) Railroad rights-of-way and utility properties which are not owned by the State, but which traverse properties owned by the State and managed by the Department;
- (3) All public and private properties which are within the boundaries of State properties managed by the Department;
- (4) All waters of the State within one mile of the shoreline of all properties owned by the Department;
- (5) All public and private property adjoining property owned by the State and managed by the Department;
- (6) All park property in Maryland owned by the federal government;
- (7) All roadways within the boundaries of or that portion of roadway adjoining properties owned by the State and managed by the Department; and

(8) Any property in Maryland for the purpose of executing a warrant that has resulted from law enforcement activities on property on which a forest, park, and wildlife ranger may exercise law enforcement powers.

(c) In exercising the powers granted under subsection (b) of this section, the law enforcement officer shall make every attempt to minimize delay of the operations of railroads and all utilities.

(d) Unless the Department has a signed memorandum of understanding with the law enforcement agency with primary jurisdiction over the property, a forest, park, and wildlife ranger may not exercise law enforcement powers under the provisions of subsection (b)(3) and (5) of this section.

(e) All forest, park, and wildlife rangers, including persons appointed for training prior to regular assignment as a ranger, shall remain in a probationary status for a period of 2 years from the date of initial appointment. The Secretary may discharge an employee in probationary status for any cause which is deemed sufficient in the sole discretion of the Secretary.

(f) (1) Whenever Natural Resources police officers receive a salary increase, forest and park rangers in the State Forest and Park Service shall receive a salary increase in the same percentage as the salary increase received by Natural Resources police officers.

(2) Whenever Natural Resources police officers receive a grade or step increase, forest and park rangers in the State Forest and Park Service shall receive an equal grade or step increase.

(g) **[In] SUBJECT TO § 1-107 OF THIS ARTICLE, IN** cases of inconsistency between this subtitle and the provisions of the State Personnel and Pensions Article, the provisions of this subtitle shall control as to all matters relating to Natural Resources law enforcement officers.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 331

**(House Bill 989)**

AN ACT concerning

**State Personnel – Natural Resources Law Enforcement Officers –  
Appointment to Major or Lieutenant Colonel**

FOR the purpose of authorizing the Secretary of Natural Resources to appoint a certain law enforcement officer to the rank of Major or Lieutenant Colonel without examination; establishing that a certain law enforcement officer appointed in accordance with certain provisions of this Act continues to serve at the pleasure of the Secretary; providing that on termination of a certain appointment, the Secretary may return a certain law enforcement officer ~~may return~~ to a certain ~~rank vacant position~~ or ~~be promoted~~ promote the law enforcement officer to a certain higher rank under certain circumstances; establishing that in cases of inconsistency between certain provisions of this Act and certain other provisions of law, certain provisions of this Act shall control as to certain matters; making certain conforming changes; providing for the application of certain provisions of this Act; and generally relating to law enforcement officers of the Department of Natural Resources.

BY adding to

Article – Natural Resources  
Section 1–107  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources  
Section 1–203 and 5–206  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

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

**Article – Natural Resources**

**1–107.**

**(A) THIS SECTION APPLIES TO NATURAL RESOURCES POLICE OFFICERS AND EMPLOYEES COMMISSIONED AS LAW ENFORCEMENT OFFICERS OF THE STATE FOREST AND PARK SERVICE.**

**(B) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE SECRETARY MAY APPOINT WITHOUT EXAMINATION:**

**(I) A LAW ENFORCEMENT OFFICER WHO HOLDS A COMMISSIONED RANK TO THE RANK OF MAJOR; AND**

(II) A LAW ENFORCEMENT OFFICER WHO HOLDS A COMMISSIONED RANK OF NOT LESS THAN CAPTAIN TO THE RANK OF LIEUTENANT COLONEL.

(2) A LAW ENFORCEMENT OFFICER APPOINTED IN ACCORDANCE WITH THIS SUBSECTION CONTINUES TO SERVE AT THE PLEASURE OF THE SECRETARY.

(3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ON TERMINATION OF AN APPOINTMENT UNDER THIS SUBSECTION, THE ~~LAW ENFORCEMENT OFFICER~~ SECRETARY MAY:

(I) ~~RETURN TO THE RANK HELD BEFORE THE APPOINTMENT~~ THE LAW ENFORCEMENT OFFICER TO A VACANT LAW ENFORCEMENT OFFICER POSITION; OR

(II) ~~BE PROMOTED~~ PROMOTE THE LAW ENFORCEMENT OFFICER TO A HIGHER RANK TO WHICH THE LAW ENFORCEMENT OFFICER BECAME ELIGIBLE FOR PROMOTION DURING THE APPOINTMENT.

(C) IN CASES OF INCONSISTENCY BETWEEN THIS SECTION AND THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE, THE PROVISIONS OF THIS SECTION SHALL CONTROL AS TO ALL MATTERS RELATING TO THE APPOINTMENT OF A LAW ENFORCEMENT OFFICER OF THE DEPARTMENT TO THE RANK OF MAJOR OR LIEUTENANT COLONEL.

1-203.

(a) The Secretary shall, within the limits of any appropriation made for this purpose, appoint Natural Resources police officers as the Secretary deems necessary for the efficient administration of the Natural Resources Police Force. All appointments shall be made from a list of eligible persons prepared in accordance with the provisions of the State Personnel and Pensions Article.

(b) The Secretary shall issue to each person appointed as Natural Resources police officer a commission and badge stating "Natural Resources Police Officer".

(c) Except when on detective duty, every Natural Resources police officer shall wear in plain view a "Natural Resources Police Officer" badge when acting in his official capacity.

(d) The badge is property of the State, and upon the termination of a commission of any Natural Resources police officer, it shall be returned with the commission to the Secretary.

(e) All Natural Resources police officers, including persons appointed for training prior to regular assignment as a Natural Resources police officer, shall remain in a probationary status for a period of 2 years from the date of initial appointment to the Natural Resources Police Force. The Secretary may discharge an employee in probationary status for any cause which is deemed sufficient in the sole discretion of the Secretary.

(f) **[In] SUBJECT TO § 1–107 OF THIS ARTICLE, IN** cases of inconsistency between this subtitle and the provisions of the State Personnel and Pensions Article, the provisions of this subtitle shall control as to all matters relating to the Natural Resources Police Force.

5–206.

(a) The Secretary may commission any person to act as a forest or park warden, subject to removal at any time at the pleasure of the Secretary. While holding office, a warden has and may exercise the authority and power of a Natural Resources police officer or a law enforcement officer as provided in his commission so far as arresting and prosecuting persons for violations of any forest or park laws or of the laws, rules and regulations enacted for the protection of the State forestry reservations, State parks, historic monuments, recreation areas, or for the protection of fish and game.

(b) The Secretary shall, within the limits of any appropriation made for this purpose, commission forest, park, and wildlife rangers as the Secretary deems necessary for the enforcement of laws and regulations as provided in this subsection. All appointments shall be made from a list of eligible persons prepared in accordance with the provisions of the State Personnel and Pensions Article. An employee so commissioned and assigned law enforcement duties has and may exercise the powers of a Natural Resources police officer or a law enforcement officer of the State. These powers may be exercised upon:

- (1) Properties owned by the State and managed by the Department;
- (2) Railroad rights-of-way and utility properties which are not owned by the State, but which traverse properties owned by the State and managed by the Department;
- (3) All public and private properties which are within the boundaries of State properties managed by the Department;
- (4) All waters of the State within one mile of the shoreline of all properties owned by the Department;
- (5) All public and private property adjoining property owned by the State and managed by the Department;

(6) All park property in Maryland owned by the federal government;

(7) All roadways within the boundaries of or that portion of roadway adjoining properties owned by the State and managed by the Department; and

(8) Any property in Maryland for the purpose of executing a warrant that has resulted from law enforcement activities on property on which a forest, park, and wildlife ranger may exercise law enforcement powers.

(c) In exercising the powers granted under subsection (b) of this section, the law enforcement officer shall make every attempt to minimize delay of the operations of railroads and all utilities.

(d) Unless the Department has a signed memorandum of understanding with the law enforcement agency with primary jurisdiction over the property, a forest, park, and wildlife ranger may not exercise law enforcement powers under the provisions of subsection (b)(3) and (5) of this section.

(e) All forest, park, and wildlife rangers, including persons appointed for training prior to regular assignment as a ranger, shall remain in a probationary status for a period of 2 years from the date of initial appointment. The Secretary may discharge an employee in probationary status for any cause which is deemed sufficient in the sole discretion of the Secretary.

(f) (1) Whenever Natural Resources police officers receive a salary increase, forest and park rangers in the State Forest and Park Service shall receive a salary increase in the same percentage as the salary increase received by Natural Resources police officers.

(2) Whenever Natural Resources police officers receive a grade or step increase, forest and park rangers in the State Forest and Park Service shall receive an equal grade or step increase.

(g) **[In] SUBJECT TO § 1-107 OF THIS ARTICLE, IN** cases of inconsistency between this subtitle and the provisions of the State Personnel and Pensions Article, the provisions of this subtitle shall control as to all matters relating to Natural Resources law enforcement officers.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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**Chapter 332****(Senate Bill 666)**

AN ACT concerning

**Real Property – Transfer Fees – Prohibition**

FOR the purpose of prohibiting a person who conveys a fee simple interest in real property from recording a covenant for the payment of a transfer fee under certain circumstances; establishing that a covenant that requires a certain payment of a transfer fee is void under certain circumstances; defining a certain term; providing for the application of this Act; making this Act an emergency measure; and generally relating to the prohibition on transfer fees on real property.

BY adding to

Article – Real Property

Section 10–708

Annotated Code of Maryland

(2003 Replacement Volume and 2009 Supplement)

**Preamble**

WHEREAS, It is the public policy of the State of Maryland to favor the marketability of real property and the transferability of interests in real property free of title defects or unreasonable restraints on alienation; and

WHEREAS, Certain private, nongovernmental transfer fee covenants violate the public policy by impairing the marketability and transferability of real property by constituting an unreasonable restraint on alienation regardless of the duration of such covenants or the amount of such transfer fees; and

WHEREAS, Private transfer fees are an attempt to retain part of the fee simple title without having any right of possession presently or in the future; and

WHEREAS, Courts consistently have turned back attempts by landowners to create new estates in land beyond those recognized at common law; and

WHEREAS, In order to maintain the free alienability of real property in Maryland; now, therefore,

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

**Article – Real Property**

10-708.

(A) IN THIS SECTION, "TRANSFER FEE" MEANS A CHARGE PAYABLE ON THE TRANSFER OF AN INTEREST IN REAL PROPERTY OR PAYABLE FOR THE RIGHT TO ACCEPT A TRANSFER OF AN INTEREST IN REAL PROPERTY.

(B) THIS SECTION DOES NOT APPLY TO:

(1) AN INSTRUMENT CONVEYING A FEE SIMPLE INTEREST IN REAL PROPERTY THAT PROVIDES FOR CONSIDERATION PAID BY THE PURCHASER TO THE VENDOR FOR THE INTEREST BEING TRANSFERRED;

(2) THE PAYMENT OF PRINCIPAL, INTEREST, OR FEES UNDER A MORTGAGE LOAN AGREEMENT ON THE SALE OF PROPERTY BY THE MORTGAGEE;

(3) A LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, CORPORATION, JOINT VENTURE, OR PARTNERSHIP AGREEMENT IN WHICH A MEMBER, SHAREHOLDER, OR PARTNER CONTRIBUTES REAL PROPERTY TO THE LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, CORPORATION, JOINT VENTURE, OR PARTNERSHIP AGREEMENT;

(4) AN AGREEMENT PROVIDING FOR A SERIES OF RELATED TRANSFERS OF A FEE SIMPLE INTEREST IN REAL PROPERTY IF THE AGREEMENT STATES THE PRICE OF THE TRANSFERRED INTEREST, ANY CONSIDERATION EXCHANGED, THE NAME OF THE VENDOR, THE NAME OF THE PURCHASER, AND ANY OTHER ESSENTIAL TERMS FOR EACH TRANSFER OF INTEREST;

(5) AN AFFORDABLE HOUSING COVENANT, SERVITUDE, EASEMENT, CONDITION, OR RESTRICTION IN A DEED, DECLARATION, LAND SALE CONTRACT, LOAN AGREEMENT, PROMISSORY NOTE, TRUST DEED, MORTGAGE, SECURITY AGREEMENT, OR OTHER INSTRUMENT, INCLUDING INSTRUMENTS EXECUTED BY:

(I) A PUBLIC BODY;

(II) AN AGENCY OF THE FEDERAL GOVERNMENT;

(III) A CORPORATION WHOSE PURPOSES INCLUDE PROVIDING AFFORDABLE HOUSING FOR LOW-INCOME AND MODERATE-INCOME HOUSEHOLDS;

(IV) A LIMITED LIABILITY COMPANY WITH AT LEAST ONE MEMBER THAT IS A CORPORATION DESCRIBED UNDER ITEM (III) OF THIS PARAGRAPH;

(V) A CONSUMER HOUSING COOPERATIVE; OR

(VI) A FEDERALLY RECOGNIZED INDIAN TRIBE;

(6) A FEE REQUIRED TO BE PAID TO:

(I) A HOMEOWNERS ASSOCIATION AS DEFINED IN § 11B-101 OF THIS ARTICLE;

(II) A COUNCIL OF UNIT OWNERS AS DEFINED IN § 11-101 OF THIS ARTICLE;

(III) A MANAGING ENTITY OF A TIMESHARE PLAN AS DEFINED IN § 11A-101 OF THIS ARTICLE;

(IV) ANY OTHER OWNERS ASSOCIATION THAT IS GOVERNED BY RECORDED COVENANTS, CONDITIONS, AND RESTRICTIONS; OR

(V) AN AGENT FOR AN ASSOCIATION OR MANAGING ENTITY DESCRIBED IN THIS PARAGRAPH; OR

(7) AN AGREEMENT WITH A PERSON LICENSED TO PROVIDE REAL ESTATE BROKERAGE SERVICES UNDER TITLE 17 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE TO PAY A COMMISSION TO THE LICENSEE FOR THE REAL ESTATE BROKERAGE SERVICES PROVIDED.

(C) (1) A PERSON WHO CONVEYS A FEE SIMPLE INTEREST IN REAL PROPERTY MAY NOT RECORD A COVENANT AGAINST THE TITLE TO THE REAL PROPERTY FOR THE PAYMENT OF A TRANSFER FEE.

(2) A COVENANT THAT REQUIRES THE PAYMENT OF A TRANSFER FEE ON THE CONVEYANCE OF A FEE SIMPLE INTEREST IN REAL PROPERTY IS VOID.

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 instrument conveying an interest in real property that is signed by the vendor before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 333**

### **(House Bill 1298)**

AN ACT concerning

#### **Real Property – Transfer Fees – Prohibition**

FOR the purpose of prohibiting a person who conveys a fee simple interest in real property from recording a covenant for the payment of a transfer fee under certain circumstances; establishing that a covenant that requires a certain payment of a transfer fee is void under certain circumstances; defining a certain term; providing for the application of this Act; making this Act an emergency measure; and generally relating to the prohibition on transfer fees on real property.

BY adding to

Article – Real Property

Section 10–708

Annotated Code of Maryland

(2003 Replacement Volume and 2009 Supplement)

#### **Preamble**

WHEREAS, It is the public policy of the State of Maryland to favor the marketability of real property and the transferability of interests in real property free of title defects or unreasonable restraints on alienation; and

WHEREAS, Certain private, nongovernmental transfer fee covenants violate the public policy by impairing the marketability and transferability of real property by constituting an unreasonable restraint on alienation regardless of the duration of such covenants or the amount of such transfer fees; and

WHEREAS, Private transfer fees are an attempt to retain part of the fee simple title without having any right of possession presently or in the future; and

WHEREAS, Courts consistently have turned back attempts by landowners to create new estates in land beyond those recognized at common law; and

WHEREAS, In order to maintain the free alienability of real property in Maryland; now, therefore,

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

**Article – Real Property**

**10-708.**

**(A) IN THIS SECTION, “TRANSFER FEE” MEANS A CHARGE PAYABLE ON THE TRANSFER OF AN INTEREST IN REAL PROPERTY OR PAYABLE FOR THE RIGHT TO ACCEPT A TRANSFER OF AN INTEREST IN REAL PROPERTY.**

**(B) THIS SECTION DOES NOT APPLY TO:**

**(1) AN INSTRUMENT CONVEYING A FEE SIMPLE INTEREST IN REAL PROPERTY THAT PROVIDES FOR CONSIDERATION PAID BY THE PURCHASER TO THE VENDOR FOR THE INTEREST BEING TRANSFERRED;**

**(2) THE PAYMENT OF PRINCIPAL, INTEREST, OR FEES UNDER A MORTGAGE LOAN AGREEMENT ON THE SALE OF PROPERTY BY THE MORTGAGEE;**

**(3) A LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, CORPORATION, JOINT VENTURE, OR PARTNERSHIP AGREEMENT IN WHICH A MEMBER, SHAREHOLDER, OR PARTNER CONTRIBUTES REAL PROPERTY TO THE LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, CORPORATION, JOINT VENTURE, OR PARTNERSHIP AGREEMENT;**

**(4) AN AGREEMENT PROVIDING FOR A SERIES OF RELATED TRANSFERS OF A FEE SIMPLE INTEREST IN REAL PROPERTY IF THE AGREEMENT STATES THE PRICE OF THE TRANSFERRED INTEREST, ANY CONSIDERATION EXCHANGED, THE NAME OF THE VENDOR, THE NAME OF THE PURCHASER, AND ANY OTHER ESSENTIAL TERMS FOR EACH TRANSFER OF INTEREST;**

**(5) AN AFFORDABLE HOUSING COVENANT, SERVITUDE, EASEMENT, CONDITION, OR RESTRICTION IN A DEED, DECLARATION, LAND SALE CONTRACT, LOAN AGREEMENT, PROMISSORY NOTE, TRUST DEED, MORTGAGE, SECURITY AGREEMENT, OR OTHER INSTRUMENT, INCLUDING INSTRUMENTS EXECUTED BY:**

- (I) A PUBLIC BODY;
  - (II) AN AGENCY OF THE FEDERAL GOVERNMENT;
  - (III) A CORPORATION WHOSE PURPOSES INCLUDE PROVIDING AFFORDABLE HOUSING FOR LOW-INCOME AND MODERATE-INCOME HOUSEHOLDS;
  - (IV) A LIMITED LIABILITY COMPANY WITH AT LEAST ONE MEMBER THAT IS A CORPORATION DESCRIBED UNDER ITEM (III) OF THIS PARAGRAPH;
  - (V) A CONSUMER HOUSING COOPERATIVE; OR
  - (VI) A FEDERALLY RECOGNIZED INDIAN TRIBE;
- (6) A FEE REQUIRED TO BE PAID TO:
- (I) A HOMEOWNERS ASSOCIATION AS DEFINED IN § 11B-101 OF THIS ARTICLE;
  - (II) A COUNCIL OF UNIT OWNERS AS DEFINED IN § 11-101 OF THIS ARTICLE;
  - (III) A MANAGING ENTITY OF A TIMESHARE PLAN AS DEFINED IN § 11A-101 OF THIS ARTICLE;
  - (IV) ANY OTHER OWNERS ASSOCIATION THAT IS GOVERNED BY RECORDED COVENANTS, CONDITIONS, AND RESTRICTIONS; OR
  - (V) AN AGENT FOR AN ASSOCIATION OR MANAGING ENTITY DESCRIBED IN THIS PARAGRAPH; OR
- (7) AN AGREEMENT WITH A PERSON LICENSED TO PROVIDE REAL ESTATE BROKERAGE SERVICES UNDER TITLE 17 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE TO PAY A COMMISSION TO THE LICENSEE FOR THE REAL ESTATE BROKERAGE SERVICES PROVIDED.
- (c) (1) A PERSON WHO CONVEYS A FEE SIMPLE INTEREST IN REAL PROPERTY MAY NOT RECORD A COVENANT AGAINST THE TITLE TO THE REAL PROPERTY FOR THE PAYMENT OF A TRANSFER FEE.

**(2) A COVENANT THAT REQUIRES THE PAYMENT OF A TRANSFER FEE ON THE CONVEYANCE OF A FEE SIMPLE INTEREST IN REAL PROPERTY IS VOID.**

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 instrument conveying an interest in real property that is signed by the vendor before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 334**

**(Senate Bill 670)**

AN ACT concerning

### **Criminal Law – Trespass on Posted Property and Wanton Trespass on Private Property – Penalties**

FOR the purpose of increasing the penalties for certain subsequent violations of the crime of trespass on posted property; increasing the penalties for certain subsequent violations of the crime of wanton trespass on private property; and generally relating to penalties for the trespass crimes.

BY repealing and reenacting, with amendments,  
Article – Criminal Law  
Section 6–402 and 6–403  
Annotated Code of Maryland  
(2002 Volume and 2009 Supplement)

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

### **Article – Criminal Law**

6–402.

(a) A person may not enter or trespass on property that is posted conspicuously against trespass by:

(1) signs placed where they reasonably may be seen; or

(2) paint marks that:

(i) conform with regulations that the Department of Natural Resources adopts under § 5–209 of the Natural Resources Article; and

(ii) are made on trees or posts that are located:

1. at each road entrance to the property; and

2. adjacent to public roadways, public waterways, and other land adjoining the property.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:

**(1) FOR A FIRST VIOLATION, imprisonment not exceeding 90 days or a fine not exceeding \$500 or both;**

**(2) FOR A SECOND VIOLATION OCCURRING WITHIN 2 YEARS AFTER THE FIRST VIOLATION, IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR BOTH; AND**

**(3) FOR EACH SUBSEQUENT VIOLATION OCCURRING WITHIN 2 YEARS AFTER THE PRECEDING VIOLATION, IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$2,500 OR BOTH.**

6–403.

(a) A person may not enter or cross over private property or board the boat or other marine vessel of another, after having been notified by the owner or the owner's agent not to do so, unless entering or crossing under a good faith claim of right or ownership.

(b) A person may not remain on private property including the boat or other marine vessel of another, after having been notified by the owner or the owner's agent not to do so.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:

(1) FOR A FIRST VIOLATION, imprisonment not exceeding 90 days or a fine not exceeding \$500 or both;

(2) FOR A SECOND VIOLATION OCCURRING WITHIN 2 YEARS AFTER THE FIRST VIOLATION, IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR BOTH; AND

(3) FOR EACH SUBSEQUENT VIOLATION OCCURRING WITHIN 2 YEARS AFTER THE PRECEDING VIOLATION, IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$2,500 OR BOTH.

(d) This section prohibits only wanton entry on private property.

(e) This section also applies to property that is used as a housing project and operated by a housing authority or State public body, as those terms are defined in Division II of the Housing and Community Development Article, if an authorized agent of the housing authority or State public body gives the required notice specified in subsection (a) or (b) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 335

(House Bill 818)

AN ACT concerning

### **Criminal Law – Trespass on Posted Property and Wanton Trespass on Private Property – Penalties**

FOR the purpose of increasing the penalties for *certain* subsequent violations of the crime of trespass on posted property; increasing the penalties for *certain* subsequent violations of the crime of wanton trespass on private property; and generally relating to penalties for the trespass crimes.

BY repealing and reenacting, with amendments,  
Article – Criminal Law  
Section 6–402 and 6–403  
Annotated Code of Maryland  
(2002 Volume and 2009 Supplement)

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

**Article – Criminal Law**

6–402.

(a) A person may not enter or trespass on property that is posted conspicuously against trespass by:

(1) signs placed where they reasonably may be seen; or

(2) paint marks that:

(i) conform with regulations that the Department of Natural Resources adopts under § 5–209 of the Natural Resources Article; and

(ii) are made on trees or posts that are located:

1. at each road entrance to the property; and

2. adjacent to public roadways, public waterways, and other land adjoining the property.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:

**(1) FOR A FIRST VIOLATION, imprisonment not exceeding 90 days or a fine not exceeding \$500 or both;**

**(2) FOR A SECOND VIOLATION OCCURRING WITHIN 2 YEARS AFTER THE FIRST VIOLATION, IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR BOTH; AND**

**(3) FOR EACH SUBSEQUENT VIOLATION OCCURRING WITHIN 2 YEARS AFTER THE PRECEDING VIOLATION, IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$2,500 OR BOTH.**

6–403.

(a) A person may not enter or cross over private property or board the boat or other marine vessel of another, after having been notified by the owner or the owner's agent not to do so, unless entering or crossing under a good faith claim of right or ownership.

(b) A person may not remain on private property including the boat or other marine vessel of another, after having been notified by the owner or the owner's agent not to do so.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:

(1) FOR A FIRST VIOLATION, imprisonment not exceeding 90 days or a fine not exceeding \$500 or both;

(2) FOR A SECOND VIOLATION OCCURRING WITHIN 2 YEARS AFTER THE FIRST VIOLATION, IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR BOTH; AND

(3) FOR EACH SUBSEQUENT VIOLATION OCCURRING WITHIN 2 YEARS AFTER THE PRECEDING VIOLATION, IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$2,500 OR BOTH.

(d) This section prohibits only wanton entry on private property.

(e) This section also applies to property that is used as a housing project and operated by a housing authority or State public body, as those terms are defined in Division II of the Housing and Community Development Article, if an authorized agent of the housing authority or State public body gives the required notice specified in subsection (a) or (b) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 336

(Senate Bill 683)

AN ACT concerning

### Property Taxes – ~~Homestead Property Tax Credit~~ Bicounty Commissions

FOR the purpose of providing that the homestead property tax credit applies to any State, county, or municipal corporation property tax, ~~including and~~ certain taxes imposed by a county for a bicounty commission and certain taxes imposed ~~for special taxing districts;~~ for certain bicounty commissions; specifying the applicable homestead credit percentage for certain taxes imposed for certain

bicounty commissions; defining a certain term; altering a certain definition; providing for the calculation of the homestead property tax credit for a certain taxable year for property tax imposed for certain bicounty commissions; providing for the application and construction of certain laws relating to certain taxes imposed for certain bicounty commissions; providing for the application of this Act; and generally relating to the homestead property tax credit and property taxes imposed for certain bicounty commissions.

BY repealing and reenacting, without amendments,

Article – Tax – Property

Section 9–105(a)(1)

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

BY adding to

Article – Tax – Property

Section 9–105(a)(9)

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – Property

Section ~~9–105(b)~~ ~~9–105(b)~~, ~~(c)(2)~~ 9–105(a)(5), (b), (e)(1) and (2), and (g)

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

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

### **Article – Tax – Property**

9–105.

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

(5) “Taxable assessment” means the assessment on which the [State, county, or municipal corporation] property tax rate was imposed in the preceding taxable year, adjusted by the phased-in assessment increase resulting from a revaluation under § 8–104(c)(1)(iii) of this article, less the amount of any assessment on which a property tax credit under this section is authorized.

(9) **“BICOUNTY COMMISSION” MEANS:**

**(I) THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION;**

(II) THE WASHINGTON SUBURBAN SANITARY COMMISSION;  
OR

(III) THE WASHINGTON SUBURBAN TRANSIT COMMISSION.

(b) (1) If there is an increase in property assessment as calculated under this section, the State and the governing body of each county and of each municipal corporation shall grant a property tax credit under this section against the State, county, and municipal corporation property tax imposed on real property by the State, county, or municipal corporation.

(2) A PROPERTY TAX CREDIT GRANTED UNDER THIS SECTION SHALL BE APPLICABLE TO ANY STATE, COUNTY, OR MUNICIPAL CORPORATION PROPERTY TAX, ~~INCLUDING:~~ AND ANY PROPERTY TAX IMPOSED FOR A BICOUNTY COMMISSION.

~~(I) ANY PROPERTY TAX IMPOSED BY A COUNTY FOR ANY BICOUNTY COMMISSION; AND~~

~~(II) ANY PROPERTY TAX IMPOSED FOR A SPECIAL TAXING DISTRICT.~~

(e) (1) For each taxable year, the property tax credit under this section is calculated by:

(i) multiplying the prior year's taxable assessment by the homestead credit percentage as provided under paragraph (2) of this subsection;

(ii) subtracting that amount from the current year's assessment;  
and

(iii) if the difference is a positive number, multiplying the difference by the applicable [State, county, or municipal corporation] property tax rate for the current year.

(2) For each taxable year, the homestead credit percentage under paragraph (1)(i) of this subsection is:

(i) for the State property tax AND FOR ANY PROPERTY TAX IMPOSED FOR A BICOUNTY COMMISSION, 110%;

(ii) for the county property tax:

1. the homestead credit percentage established by the county under paragraph (3) of this subsection; or

2. if the county has not set a percentage for the taxable year under paragraph (3) of this subsection or has not notified the Department as required under paragraph (6) of this subsection, the homestead credit percentage in effect for the county for the preceding taxable year; and

(iii) for the municipal corporation property tax:

1. the homestead credit percentage established by the municipal corporation under paragraph (4) of this subsection; or

2. if the municipal corporation has not set a percentage under paragraph (4) of this subsection or has not notified the Department as required under paragraph (7) of this subsection, the homestead credit percentage for the taxable year for the county in which the property is located.

(g) A homeowner who meets the requirements of this section shall be granted the property tax credit under this section against the State, county, and municipal corporation property tax AND ANY PROPERTY TAX IMPOSED FOR A BICOUNTY COMMISSION imposed on the real property of the dwelling.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) In this section, "bicounty commission" means:

- (1) the Maryland–National Capital Park and Planning Commission;
- (2) the Washington Suburban Sanitary Commission; or
- (3) the Washington Suburban Transit Commission.

(b) Any provision of Article 28 of the Code, Article 29 of the Code, or Chapter 870 of the Acts of the General Assembly of 1965, as amended, providing that a tax imposed for a bicounty commission shall be levied and collected as county taxes are levied and collected, have the same priority rights, bear the same interest and penalties, and in any other respect be treated the same as a county tax:

(1) applies only to the authority to ~~impose, enforce,~~ enforce and collect the tax imposed for the bicounty commission; and

(2) may not be deemed or construed to mean that the tax imposed for the bicounty commission is a county property tax under the Tax – Property Article.

(c) For the purpose of calculating the homestead tax credit under § 9–105 of the Tax – Property Article, as enacted by Section 1 of this Act, for the tax year beginning July 1, 2010, the prior year's taxable assessment used for purposes of calculating the credit for property tax imposed for a bicounty commission shall be the prior year's taxable assessment used for calculating the credit for the State property tax.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010, and shall be applicable to all taxable years beginning after June 30, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 337

(Senate Bill 685)

AN ACT concerning

~~Personal Property Tax – Heavy Equipment~~  
**Heavy Equipment Tax Reform Act of 2010**

FOR the purpose of ~~authorizing a county or municipal corporation to impose a tax, not exceeding a certain amount,~~ imposing a tax at a certain rate on the gross receipts from the short-term lease or rental of certain heavy equipment property under certain circumstances; requiring a person who owns a business with gross receipts subject to the tax to collect and remit the tax in a certain manner by a certain day each quarter; requiring a person who owns a business with gross receipts subject to a certain tax to submit a certain report to the Department of Assessments and Taxation and a certain list to the county or municipal corporation where the business is located; requiring a county or municipal corporation to calculate the difference between certain amounts and to submit a certain statement and bill to a business with certain gross receipts; providing that certain heavy equipment property is not subject to property tax; providing for a delayed effective date; defining certain terms; providing for the application of this Act; and generally relating to the taxation of certain heavy equipment property.

BY adding to

Article 24 – Political Subdivisions – Miscellaneous Provisions  
Section 9–609  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

BY adding to

Article – Tax – Property  
Section 7–243  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 Supplement)

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

**Article 24 – Political Subdivisions – Miscellaneous Provisions**

**9–609.**

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

(2) “GROSS RECEIPTS SHORTAGE” MEANS THE AMOUNT BY WHICH THE PROPERTY TAX CALCULATED UNDER SUBSECTION (D)(2) OF THIS SECTION THAT WOULD HAVE BEEN DUE EXCEEDS THE TOTAL GROSS RECEIPTS TAX REMITTED UNDER SUBSECTION (C) OF THIS SECTION.

(3) “GROSS RECEIPTS SURPLUS” MEANS THE AMOUNT BY WHICH THE TOTAL GROSS RECEIPTS TAX REMITTED UNDER SUBSECTION (C) OF THIS SECTION EXCEEDS THE AMOUNT OF PROPERTY TAX CALCULATED UNDER SUBSECTION (D)(2) OF THIS SECTION THAT WOULD HAVE BEEN DUE.

(4) (I) “HEAVY EQUIPMENT PROPERTY” MEANS CONSTRUCTION, EARTHMOVING, OR INDUSTRIAL EQUIPMENT THAT IS MOBILE INCLUDING ANY ATTACHMENT FOR THE HEAVY EQUIPMENT.

(II) “HEAVY EQUIPMENT PROPERTY” INCLUDES:

1. A SELF-PROPELLED VEHICLE THAT IS NOT DESIGNED TO BE DRIVEN ON A HIGHWAY; OR

2. INDUSTRIAL ELECTRICAL GENERATION EQUIPMENT, INDUSTRIAL LIFT EQUIPMENT, INDUSTRIAL MATERIAL HANDLING EQUIPMENT, OR OTHER SIMILAR INDUSTRIAL EQUIPMENT.

~~(3)~~ (5) “SHORT-TERM LEASE OR RENTAL” MEANS THE LEASE OR RENTAL OF HEAVY EQUIPMENT PROPERTY FOR A PERIOD OF 365 DAYS OR LESS.

(B) (1) ~~THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION MAY IMPOSE, BY ORDINANCE OR RESOLUTION, A TAX AT A RATE NOT TO EXCEED 2% ON THE GROSS RECEIPTS FROM THE SHORT-TERM LEASE OR RENTAL OF HEAVY EQUIPMENT PROPERTY BY A PERSON WHOSE PRINCIPAL BUSINESS IS THE SHORT-TERM LEASE OR RENTAL OF HEAVY EQUIPMENT PROPERTY AT RETAIL. THERE IS A TAX AT A RATE OF 2% ON THE GROSS RECEIPTS FROM THE SHORT-TERM LEASE OR RENTAL OF HEAVY EQUIPMENT~~

PROPERTY BY A PERSON WHOSE PRINCIPAL BUSINESS IS THE SHORT-TERM LEASE OR RENTAL OF HEAVY EQUIPMENT PROPERTY AT RETAIL.

~~(2) THE GROSS RECEIPTS ARE SUBJECT TO THE TAX UNDER PARAGRAPH (1) OF THIS SUBSECTION IF THE PLACE OF BUSINESS FROM WHICH THE HEAVY EQUIPMENT PROPERTY IS DELIVERED IS LOCATED IN THE COUNTY OR MUNICIPAL CORPORATION~~ THE TAX IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A BUSINESS LOCATED IN A COUNTY OR MUNICIPAL CORPORATION THAT DOES NOT IMPOSE A PERSONAL PROPERTY TAX.

(3) A PERSON IS IN THE PRINCIPAL BUSINESS OF SHORT-TERM LEASE OR RENTAL OF HEAVY EQUIPMENT PROPERTY IF:

(I) THE LARGEST SEGMENT OF TOTAL RENTAL RECEIPTS OF THE BUSINESS IS FROM THE SHORT-TERM LEASE OR RENTAL OF HEAVY EQUIPMENT PROPERTY; AND

(II) THE BUSINESS IS DESCRIBED UNDER CODE 532412 OF THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM AS PUBLISHED BY THE UNITED STATES CENSUS BUREAU.

~~(4) IF A COUNTY IMPOSES THE TAX AUTHORIZED UNDER THIS SECTION, THE RATE IMPOSED BY A MUNICIPALITY IN THE COUNTY MAY NOT EXCEED THE RATE SO THAT, WHEN COMBINED WITH THE COUNTY TAX, THE TOTAL TAX RATE WILL EXCEED 2%.~~

(C) (1) A PERSON WHO OWNS A BUSINESS WITH GROSS RECEIPTS SUBJECT TO THE TAX UNDER SUBSECTION (B) OF THIS SECTION SHALL COLLECT THE TAX FROM THE RENTAL CUSTOMER AND REMIT THE TAX ~~TO THE COUNTY OR MUNICIPAL CORPORATION~~ AS PROVIDED IN THIS SUBSECTION.

(2) THE TAX IS PAYABLE QUARTERLY AND DUE BY THE LAST DAY OF THE MONTH AFTER THE END OF THE QUARTER.

(3) A PERSON WHO OWNS A BUSINESS WITH GROSS RECEIPTS SUBJECT TO THE TAX UNDER SUBSECTION (B) OF THIS SECTION SHALL REMIT THE TAX COLLECTED TO:

(I) THE COUNTY IN WHICH THE BUSINESS IS LOCATED, IF THAT LOCATION IS NOT WITHIN A MUNICIPAL CORPORATION; OR

(II) THE COUNTY AND MUNICIPAL CORPORATION IN WHICH THE BUSINESS IS LOCATED IN PROPORTION TO THE PERSONAL PROPERTY TAX

RATE OF THE COUNTY AND MUNICIPAL CORPORATION, IF THAT LOCATION IS WITHIN A MUNICIPAL CORPORATION.

(4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE GROSS RECEIPTS TAX IMPOSED UNDER THIS SECTION SHALL BE ADMINISTERED AND COLLECTIBLE ACCORDING TO THE LAWS OTHERWISE APPLICABLE TO THE PERSONAL PROPERTY TAX UNDER THE TAX – PROPERTY ARTICLE.

(D) (1) A PERSON WHO OWNS A BUSINESS WITH GROSS RECEIPTS SUBJECT TO THE TAX UNDER SUBSECTION (B) OF THIS SECTION SHALL SUBMIT:

(I) TO THE DEPARTMENT OF ASSESSMENTS AND TAXATION A REPORT ON PERSONAL PROPERTY AS REQUIRED UNDER § 11-101 OF THE TAX – PROPERTY ARTICLE; AND

(II) TO THE COUNTY OR MUNICIPAL CORPORATION WHERE THE HEAVY EQUIPMENT RENTAL BUSINESS IS LOCATED A LIST OF ALL PERSONAL PROPERTY, INCLUDING THE ORIGINAL COST AND DATE OF ACQUISITION OF THE PROPERTY, THAT:

1. IS SUBJECT TO THE GROSS RECEIPTS TAX UNDER THIS SECTION; AND

2. IS EXEMPT FROM THE PROPERTY TAX UNDER § 7-243 OF THE TAX – PROPERTY ARTICLE.

(2) FOR EACH PERSON THAT SUBMITS A LIST UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION, A COUNTY OR MUNICIPAL CORPORATION SHALL CALCULATE THE AMOUNT OF PROPERTY TAX THAT WOULD HAVE BEEN DUE FOR ALL PROPERTY THAT IS EXEMPT UNDER § 7-243~~(D)~~ OF THE TAX – PROPERTY ARTICLE.

(3) A COUNTY OR MUNICIPAL CORPORATION SHALL CALCULATE THE DIFFERENCE BETWEEN:

(I) THE TOTAL GROSS RECEIPTS TAX REMITTED UNDER SUBSECTION (C) OF THIS SECTION BY THE PERSON DURING THE PREVIOUS CALENDAR YEAR; AND

(II) THE AMOUNT OF PROPERTY TAX CALCULATED UNDER PARAGRAPH (2) OF THIS SUBSECTION THAT WOULD HAVE BEEN DUE.

(4) (I) ON OR BEFORE FEBRUARY 28TH OF EACH YEAR, A COUNTY OR MUNICIPAL CORPORATION SHALL PROVIDE A STATEMENT TO EACH PERSON WHO OWNS A BUSINESS WITH GROSS RECEIPTS SUBJECT TO THE TAX UNDER SUBSECTION (B) OF THIS SECTION, THAT INCLUDES:

1. THE TOTAL GROSS RECEIPTS TAX REMITTED UNDER SUBSECTION (C) OF THIS SECTION DURING THE PREVIOUS CALENDAR YEAR;

2. THE TOTAL PROPERTY TAX CALCULATED UNDER PARAGRAPH (2) OF THIS SUBSECTION THAT WOULD HAVE BEEN DUE; AND

3. THE GROSS RECEIPTS SHORTAGE OR GROSS RECEIPTS SURPLUS.

(II) IF THE STATEMENT INCLUDES A GROSS RECEIPTS SHORTAGE, THE COUNTY OR MUNICIPAL CORPORATION SHALL INCLUDE WITH THE STATEMENT A BILL FOR THE AMOUNT OF THE GROSS RECEIPTS SHORTAGE PAYABLE ON OR BEFORE MARCH 31 OF EACH YEAR.

(5) THE LIST REQUIRED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL BE SUBMITTED WITH THE SECOND QUARTERLY PAYMENT REQUIRED UNDER SUBSECTION (C)(2) OF THIS SECTION.

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

#### Article – Tax – Property

7-243.

(A) IN THIS SECTION, “HEAVY EQUIPMENT PROPERTY” HAS THE MEANING STATED IN ARTICLE 24, § 9-609 OF THE CODE.

(B) HEAVY EQUIPMENT PROPERTY IS NOT SUBJECT TO THE PROPERTY TAX IF ~~THE OWNER HAS GROSS RECEIPTS FROM THE SHORT TERM LEASE OR RENTAL OF THE HEAVY EQUIPMENT PROPERTY THAT WOULD BE SUBJECT TO THE GROSS RECEIPTS TAX AUTHORIZED UNDER ARTICLE 24, § 9-609 OF THE CODE, WHETHER OR NOT THE PLACE OF BUSINESS FROM WHICH THE HEAVY EQUIPMENT PROPERTY IS DELIVERED IS LOCATED IN A COUNTY OR MUNICIPAL CORPORATION THAT IMPOSES THE GROSS RECEIPTS TAX.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.~~ THE PROPERTY IS SUBJECT TO THE GROSS RECEIPTS TAX IMPOSED UNDER ARTICLE 24, § 9-609 OF THE CODE.

SECTION 3. AND BE IT FURTHER ENACTED, That to create a transition period that precludes both a duplication and an avoidance of tax:

(a) The initial period of application of Section 1 of this Act shall be the 6-month period from July 1, 2011, through December 31, 2011; and

(b) During the initial period of application, the following words have the meanings indicated:

(1) "Gross receipts shortage" means the amount by which one-half of the property tax, calculated under Article 24, § 9-609(d)(2) of the Code as enacted by Section 1 of this Act, that would be due exceeds the total gross receipts tax remitted under Article 24, § 9-609(c) of the Code as enacted by Section 1 of this Act.

(2) "Gross receipts surplus" means the amount by which the total gross receipts tax remitted under Article 24, § 9-609(c) of the Code as enacted by Section 1 of this Act exceeds one-half of the amount of property tax, calculated under Article 24, § 9-609(d)(2) of Section 1 of the Code as enacted by this Act, that would be due.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect December 31, 2010. Sections 1 and 3 shall be applicable to the initial period of application beginning on July 1, 2011, and to all calendar years beginning after December 31, 2011. Section 2 of this Act shall be applicable to all taxable years beginning after June 30, 2011.

Approved by the Governor, May 4, 2010.

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## Chapter 338

(Senate Bill 701)

AN ACT concerning

### Commercial Law – Debt Settlement Services – Study

FOR the purpose of ~~prohibiting a person from offering, providing, or attempting to provide debt settlement services in the State except as allowed under this Act; prohibiting a debt settlement services provider from receiving certain funds or payments or imposing certain fees or charges on a consumer, except for certain fees for certain services, until a debt settlement services agreement is executed~~

~~and the debt settlement services are completed; limiting to a certain amount the fee that a debt settlement services provider may charge for debt settlement services; prohibiting a debt settlement services provider from charging a fee for certain services or to rescind a debt settlement services agreement; prohibiting a debt settlement services provider from making a certain representation; requiring or advising a consumer to stop making certain payments, or requiring a consumer to make a certain contribution; requiring that a debt settlement services agreement be signed and dated by the debt settlement services provider and the consumer and include certain information and disclosures; requiring that an advertisement for debt settlement services include certain disclosures; providing that a violation of this Act is an unfair or deceptive trade practice within the meaning of the Maryland Consumer Protection Act and is subject to certain enforcement and penalty provisions; providing for the application of this Act; establishing a certain short title; defining certain terms; requiring the Office of the Commissioner of Financial Regulation in the Department of Labor, Licensing, and Regulation, in consultation with the Consumer Protection Division of the Office of the Attorney General, to conduct a study of the debt settlement services industry; requiring the study to determine how best to regulate the debt settlement services industry in the State; requiring the Office, in consultation with the Division, to establish a workgroup comprised of certain representatives; requiring the Office, in consultation with the Division, to report certain findings and recommendations on or before a certain date to certain committees of the General Assembly; and generally relating to debt settlement services and debt settlement services providers.~~

~~BY repealing and reenacting, with amendments,  
Article — Commercial Law  
Section 13-301(14)(xxvi)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)~~

~~BY repealing and reenacting, without amendments,  
Article — Commercial Law  
Section 13-301(14)(xxvii)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)~~

~~BY adding to  
Article — Commercial Law  
Section 13-301(14)(xxviii); and 14-3801 through 14-3811 to be under the new  
subsubtitle “Subsubtitle 38. Debt Settlement Services Act”  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)~~

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

(a) (1) The Office of the Commissioner of Financial Regulation in the Department of Labor, Licensing, and Regulation, in consultation with the Consumer Protection Division of the Office of the Attorney General, shall conduct a study of the debt settlement services industry.

(2) The study shall determine how the debt settlement services industry would best be regulated in the State, including the option of establishing a licensure requirement, and the fiscal impact of regulating the industry if licensure were required.

(b) In conducting its study, the Office of the Commissioner of Financial Regulation, in consultation with the Consumer Protection Division, shall establish a workgroup that is comprised of representatives of relevant stakeholders, including:

(1) representatives of:

(i) the Office of the Commissioner of Financial Regulation;

(ii) the Consumer Protection Division;

(iii) the debt settlement services industry, including representatives of the various debt settlement services providers with differing models of debt settlement services practices;

(iv) the Maryland Consumer Rights Coalition; and

(v) the debt management industry; and

(2) any other person that the Office of the Commissioner of Financial Regulation or the Consumer Protection Division considers appropriate.

(c) On or before December 1, 2010, the Office of the Commissioner of Financial Regulation, in consultation with the Consumer Protection Division, shall report, in accordance with § 2-1246 of the State Government Article, its findings and recommendations, including draft legislation, if any, to the Senate Finance Committee and the House Economic Matters Committee.

### ~~Article—Commercial Law~~

~~13-301.~~

~~Unfair or deceptive trade practices include any:~~

~~(14) Violation of a provision of:~~

~~(xxvi) Title 6, Subtitle 13 of the Environment Article; [or]~~

~~(xxvii) Section 7-405(c)(2)(ii) of the Health Occupations Article; or~~

~~(xxviii) TITLE 14, SUBTITLE 38 OF THIS ARTICLE; OR~~

~~SUBTITLE 38. DEBT SETTLEMENT SERVICES ACT.~~

~~14-3801.~~

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

~~(B) “CONSULTATION FEE” MEANS A FEE PAID BY A CONSUMER TO A DEBT SETTLEMENT SERVICES PROVIDER IN CONNECTION WITH THE PROCESSING OF ANY APPLICATION THAT THE CONSUMER MAKES FOR DEBT SETTLEMENT SERVICES.~~

~~(C) “CONSUMER” MEANS AN INDIVIDUAL WHO:~~

~~(1) RESIDES IN THE STATE; AND~~

~~(2) IS SEEKING DEBT SETTLEMENT SERVICES OR HAS ENTERED INTO A DEBT SETTLEMENT SERVICES AGREEMENT.~~

~~(D) “DEBT MANAGEMENT SERVICES” HAS THE MEANING STATED IN § 12-901 OF THE FINANCIAL INSTITUTIONS ARTICLE.~~

~~(E) (1) “DEBT SETTLEMENT SERVICES” MEANS ACTING OR OFFERING OR ATTEMPTING TO ACT FOR CONSIDERATION AS AN INTERMEDIARY BETWEEN A CONSUMER AND THE CONSUMER’S CREDITORS FOR THE PURPOSE OF SETTLING OR IN ANY WAY ALTERING THE TERMS OF PAYMENT OF ANY DEBT.~~

~~(2) “DEBT SETTLEMENT SERVICES” DOES NOT INCLUDE DEBT MANAGEMENT SERVICES.~~

~~(F) “DEBT SETTLEMENT SERVICES AGREEMENT” MEANS A WRITTEN CONTRACT, PLAN, OR AGREEMENT BETWEEN A DEBT SETTLEMENT SERVICES PROVIDER AND A CONSUMER FOR THE PERFORMANCE OF DEBT SETTLEMENT SERVICES.~~

~~(G) “DEBT SETTLEMENT SERVICES FEE” MEANS A FEE EARNED BY A DEBT SETTLEMENT SERVICES PROVIDER FOR PERFORMING DEBT SETTLEMENT SERVICES FOR A CONSUMER.~~

~~(H) "DEBT SETTLEMENT SERVICES PROVIDER" MEANS A PERSON THAT PROVIDES OR OFFERS TO PROVIDE DEBT SETTLEMENT SERVICES TO A CONSUMER.~~

~~14-3802.~~

~~THE PROVISIONS OF THIS SUBTITLE ARE IN ADDITION TO AND NOT IN SUBSTITUTION FOR ANY OTHER PROVISION OF LAW.~~

~~14-3803.~~

~~THIS SUBTITLE DOES NOT APPLY TO:~~

~~(1) THE FOLLOWING PERSONS WHEN ENGAGED IN THE REGULAR COURSE OF THEIR RESPECTIVE BUSINESSES AND PROFESSIONS:~~

~~(I) AN ATTORNEY AT LAW WHO IS ADMITTED TO PRACTICE IN THE STATE AND IS NOT PRINCIPALLY ENGAGED IN PROVIDING DEBT SETTLEMENT SERVICES;~~

~~(II) AN ESCROW AGENT;~~

~~(III) A CERTIFIED PUBLIC ACCOUNTANT;~~

~~(IV) A BANKING INSTITUTION, OTHER STATE BANK, NATIONAL BANKING ASSOCIATION, CREDIT UNION, OR SAVINGS AND LOAN ASSOCIATION;~~

~~(V) A PERSON THAT:~~

~~1. PROVIDES A BILL PAYER SERVICE, AS DEFINED IN § 12-401 OF THE FINANCIAL INSTITUTIONS ARTICLE;~~

~~2. DOES NOT INITIATE ANY CONTRACT WITH INDIVIDUAL CREDITORS OF A DEBTOR TO COMPROMISE A DEBT OR ARRANGE A NEW PAYMENT SCHEDULE; AND~~

~~3. DOES NOT PROVIDE ANY DEBT COUNSELING SERVICES;~~

~~(VI) A PERSON THAT PROVIDES AN ACCELERATED MORTGAGE PAYMENT SERVICE, AS DEFINED IN § 12-401 OF THE FINANCIAL INSTITUTIONS ARTICLE;~~

~~(VII) A TITLE INSURER, TITLE INSURANCE AGENCY, OR ABSTRACT COMPANY; OR~~

~~(VIII) A JUDICIAL OFFICER OR A PERSON ACTING UNDER A COURT ORDER;~~

~~(2) A PERSON WHILE PERFORMING SERVICES INCIDENTAL TO THE DISSOLUTION, WINDING UP, OR LIQUIDATION OF A PARTNERSHIP, CORPORATION, OR OTHER BUSINESS ENTERPRISE;~~

~~(3) A TRADE OR MERCANTILE ASSOCIATION ACTING IN THE COURSE OF ARRANGING THE ADJUSTMENT OF DEBTS WITH A BUSINESS ESTABLISHMENT; OR~~

~~(4) A MORTGAGE LENDER, AS DEFINED IN § 11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE;~~

~~(I) THAT IS LICENSED BY THE COMMISSIONER OF FINANCIAL REGULATION; AND~~

~~(II) WHILE ENGAGED IN THE MORTGAGE LENDING BUSINESS AS DEFINED IN § 11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.~~

~~14-3804.~~

~~A PERSON MAY NOT OFFER, PROVIDE, OR ATTEMPT TO PROVIDE DEBT SETTLEMENT SERVICES IN THE STATE EXCEPT AS ALLOWED UNDER THIS SUBTITLE.~~

~~14-3805.~~

~~(A) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION, A DEBT SETTLEMENT SERVICES PROVIDER MAY NOT IMPOSE ANY FEES OR OTHER CHARGES ON A CONSUMER, OR RECEIVE ANY FUNDS OR OTHER PAYMENTS ON BEHALF OF A CONSUMER, IN CONNECTION WITH THE PROVISION OF DEBT SETTLEMENT SERVICES UNTIL AFTER:~~

~~(1) THE DEBT SETTLEMENT SERVICES PROVIDER AND THE CONSUMER HAVE EXECUTED A WRITTEN DEBT SETTLEMENT SERVICES AGREEMENT; AND~~

~~(2) THE DEBT SETTLEMENT SERVICES HAVE BEEN COMPLETED.~~

~~(B) (1) A DEBT SETTLEMENT SERVICES PROVIDER MAY CHARGE A CONSULTATION FEE NOT EXCEEDING \$50.~~

~~(2) THE COST OF A CREDIT REPORT ON A CONSUMER SHALL BE PAID FROM THE CONSULTATION FEE PAID BY THE CONSUMER.~~

~~(C) A DEBT SETTLEMENT SERVICES PROVIDER MAY CHARGE A CONSUMER A FEE NOT EXCEEDING \$50 FOR A COUNSELING SESSION, AN EDUCATIONAL PROGRAM, OR MATERIALS AND SUPPLIES IF THE CONSUMER DOES NOT ENTER INTO A DEBT SETTLEMENT SERVICES AGREEMENT WITH THE DEBT SETTLEMENT SERVICES PROVIDER.~~

~~(D) (1) ON COMPLETION OF DEBT SETTLEMENT SERVICES PROVIDED UNDER A DEBT SETTLEMENT SERVICES AGREEMENT, A DEBT SETTLEMENT SERVICES PROVIDER MAY CHARGE A DEBT SETTLEMENT SERVICES FEE IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.~~

~~(2) THE DEBT SETTLEMENT SERVICES FEE MAY NOT EXCEED 15% OF THE TOTAL AMOUNT BY WHICH THE CONSUMER'S DEBT TO THE CONSUMER'S CREDITORS, AS SPECIFIED IN THE DEBT SETTLEMENT SERVICES AGREEMENT, WAS REDUCED DUE TO THE DEBT SETTLEMENT SERVICES PROVIDED UNDER THE DEBT SETTLEMENT SERVICES AGREEMENT.~~

~~14-3806.~~

~~EXCEPT AS PROVIDED IN § 14-3805(B) AND (C) OF THIS SUBTITLE, A DEBT SETTLEMENT SERVICES PROVIDER MAY NOT CHARGE A FEE TO:~~

~~(1) PREPARE A FINANCIAL ANALYSIS OR AN INITIAL BUDGET PLAN FOR A CONSUMER;~~

~~(2) COUNSEL A CONSUMER ABOUT DEBT MANAGEMENT OR DEBT SETTLEMENT;~~

~~(3) PROVIDE A CONSUMER WITH A CONSUMER EDUCATION PROGRAM; OR~~

~~(4) RESCIND A DEBT SETTLEMENT SERVICES AGREEMENT.~~

~~14-3807.~~

~~A DEBT SETTLEMENT SERVICES PROVIDER MAY NOT:~~

~~(1) MAKE A REPRESENTATION THAT A CONSUMER'S DEBT WILL BE SETTLED FOR A SPECIFIC AMOUNT OR REDUCED BY A SPECIFIC PERCENTAGE;~~

~~(2) REQUIRE OR ADVISE A CONSUMER TO STOP MAKING PAYMENTS TO A CREDITOR OF THE CONSUMER; OR~~

~~(3) REQUIRE A VOLUNTARY CONTRIBUTION FROM A CONSUMER FOR ANY SERVICE PROVIDED TO THE CONSUMER BY THE DEBT SETTLEMENT SERVICES PROVIDER.~~

~~14-3808.~~

~~A DEBT SETTLEMENT SERVICES AGREEMENT SHALL:~~

~~(1) BE SIGNED AND DATED BY THE DEBT SETTLEMENT SERVICES PROVIDER AND THE CONSUMER;~~

~~(2) INCLUDE, IN AT LEAST 12 POINT TYPE:~~

~~(I) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE CONSUMER;~~

~~(II) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE DEBT SETTLEMENT SERVICES PROVIDER;~~

~~(III) A DESCRIPTION OF THE DEBT SETTLEMENT SERVICES TO BE PROVIDED TO THE CONSUMER AND, SUBJECT TO THE PROVISIONS OF THIS SUBTITLE, ANY FEES TO BE CHARGED TO THE CONSUMER FOR THE DEBT SETTLEMENT SERVICES;~~

~~(IV) THE IDENTITY OF EACH CREDITOR WHOSE DEBTS ARE TO BE SETTLED UNDER THE DEBT SETTLEMENT SERVICES AGREEMENT AND THE AMOUNT OF THE DEBT OWED TO EACH CREDITOR;~~

~~(V) THE NAME AND ADDRESS OF THE FINANCIAL INSTITUTION, IF ANY, IN WHICH FUNDS, DEPOSITED BY OR ON BEHALF OF THE CONSUMER FOR DISBURSEMENT TO THE CONSUMER'S CREDITORS, WILL BE HELD;~~

~~(VI) A DISCLOSURE THAT ENTERING INTO A DEBT SETTLEMENT SERVICES AGREEMENT WILL NOT STOP COLLECTION EFFORTS BY THE CONSUMER'S CREDITORS;~~

~~(VII) A DISCLOSURE THAT A DEBT SETTLEMENT SERVICES PROVIDER IS PROHIBITED BY LAW FROM REPRESENTING THAT IT CAN SETTLE A CONSUMER'S DEBT FOR A SPECIFIED AMOUNT OR REDUCE A CONSUMER'S DEBT BY A SPECIFIED PERCENTAGE;~~

~~(VIII) A DISCLOSURE THAT EXECUTION OF A DEBT SETTLEMENT SERVICES AGREEMENT MAY IMPACT THE CONSUMER'S CREDIT RATING AND CREDIT SCORES;~~

~~(IX) A DISCLOSURE THAT A DEBT SETTLEMENT SERVICES PROVIDER MAY NOT REQUIRE OR ADVISE A CONSUMER TO STOP MAKING PAYMENTS TO ANY CREDITOR OF THE CONSUMER;~~

~~(X) A DISCLOSURE THAT THE CONSUMER MAY BE REQUIRED TO PAY TAXES ON THE AMOUNT BY WHICH THE CONSUMER'S DEBT IS REDUCED; AND~~

~~(XI) A DISCLOSURE THAT A DEBT SETTLEMENT SERVICES PROVIDER MAY NOT REQUIRE A VOLUNTARY CONTRIBUTION FROM A CONSUMER FOR ANY SERVICE PROVIDED TO THE CONSUMER BY THE DEBT SETTLEMENT SERVICES PROVIDER.~~

~~14-3809.~~

~~AN ADVERTISEMENT FOR DEBT SETTLEMENT SERVICES SHALL CLEARLY AND CONSPICUOUSLY INCLUDE THE DISCLOSURES SET FORTH IN § 14-3808(2)(VI) THROUGH (X) OF THIS SUBTITLE.~~

~~14-3810.~~

~~A VIOLATION OF THIS SUBTITLE IS:~~

~~(1) AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE; AND~~

~~(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS OF TITLE 13 OF THIS ARTICLE.~~

~~14-3811.~~

~~THIS SUBTITLE MAY BE CITED AS THE DEBT SETTLEMENT SERVICES ACT.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 339

### (House Bill 392)

AN ACT concerning

#### Commercial Law – Debt Settlement Services – Study

FOR the purpose of ~~prohibiting a person from offering, providing, or attempting to provide debt settlement services in the State except as allowed under this Act; prohibiting a debt settlement services provider from receiving certain funds or payments or imposing certain fees or charges on a consumer, except for certain fees for certain services, until a debt settlement services agreement is executed and the debt settlement services are completed; limiting to a certain amount the fee that a debt settlement services provider may charge for debt settlement services; prohibiting a debt settlement services provider from charging a fee for certain services or to rescind a debt settlement services agreement; prohibiting a debt settlement services provider from making a certain representation; requiring or advising a consumer to stop making certain payments, or requiring a consumer to make a certain contribution; requiring that a debt settlement services agreement be signed and dated by the debt settlement services provider and the consumer and include certain information and disclosures; requiring that an advertisement for debt settlement services include certain disclosures; providing that a violation of this Act is an unfair or deceptive trade practice within the meaning of the Maryland Consumer Protection Act and is subject to certain enforcement and penalty provisions; providing for the application of this Act; establishing a certain short title; defining certain terms; requiring the Office of the Commissioner of Financial Regulation in the Department of Labor, Licensing, and Regulation, in consultation with the Consumer Protection Division of the Office of the Attorney General, to conduct a study of the debt settlement services industry; requiring the study to determine how best to regulate the debt settlement services industry in the State; requiring the Office, in consultation with the Division, to establish a workgroup comprised of certain representatives; requiring the Office, in consultation with the Division, to report certain findings and recommendations on or before a certain date to certain committees of the General Assembly; and generally relating to debt settlement services and debt settlement services providers.~~

~~BY repealing and reenacting, with amendments,  
Article — Commercial Law  
Section 13-301(14)(xxvi)  
Annotated Code of Maryland~~

~~(2005 Replacement Volume and 2009 Supplement)~~

~~BY repealing and reenacting, without amendments,~~

~~Article — Commercial Law~~

~~Section 13 — 301(14)(xxvii)~~

~~Annotated Code of Maryland~~

~~(2005 Replacement Volume and 2009 Supplement)~~

~~BY adding to~~

~~Article — Commercial Law~~

~~Section 13 — 301(14)(xxviii); and 14 — 3801 through 14 — 3811 to be under the new subtitle “Subtitle 38. Debt Settlement Services Act”~~

~~Annotated Code of Maryland~~

~~(2005 Replacement Volume and 2009 Supplement)~~

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

(a) (1) The Office of the Commissioner of Financial Regulation in the Department of Labor, Licensing, and Regulation, in consultation with the Consumer Protection Division of the Office of the Attorney General, shall conduct a study of the debt settlement services industry.

(2) The study shall determine how the debt settlement services industry would best be regulated in the State, including the option of establishing a licensure requirement, and the fiscal impact of regulating the industry if licensure were required.

(b) In conducting its study, the Office of the Commissioner of Financial Regulation, in consultation with the Consumer Protection Division, shall establish a workgroup that is comprised of representatives of relevant stakeholders, including:

(1) representatives of:

(i) the Office of the Commissioner of Financial Regulation;

(ii) the Consumer Protection Division;

(iii) the debt settlement services industry, including representatives of the various debt settlement services providers with differing models of debt settlement services practices;

(iv) the Maryland Consumer Rights Coalition; and

(v) the debt management industry; and

(2) any other person that the Office of the Commissioner of Financial Regulation or the Consumer Protection Division considers appropriate.

(c) On or before December 1, 2010, the Office of the Commissioner of Financial Regulation, in consultation with the Consumer Protection Division, shall report, in accordance with § 2–1246 of the State Government Article, its findings and recommendations, including draft legislation, if any, to the Senate Finance Committee and the House Economic Matters Committee.

### ~~Article – Commercial Law~~

~~13–301.~~

~~Unfair or deceptive trade practices include any:~~

~~(14) Violation of a provision of:~~

~~(xxvi) Title 6, Subtitle 13 of the Environment Article; [or]~~

~~(xxvii) Section 7–405(c)(2)(ii) of the Health Occupations Article; or~~

~~(xxviii) TITLE 14, SUBTITLE 38 OF THIS ARTICLE; OR~~

~~SUBTITLE 38. DEBT SETTLEMENT SERVICES ACT.~~

~~14–3801.~~

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

~~(B) “CONSULTATION FEE” MEANS A FEE PAID BY A CONSUMER TO A DEBT SETTLEMENT SERVICES PROVIDER IN CONNECTION WITH THE PROCESSING OF ANY APPLICATION THAT THE CONSUMER MAKES FOR DEBT SETTLEMENT SERVICES.~~

~~(C) “CONSUMER” MEANS AN INDIVIDUAL WHO:~~

~~(1) RESIDES IN THE STATE; AND~~

~~(2) IS SEEKING DEBT SETTLEMENT SERVICES OR HAS ENTERED INTO A DEBT SETTLEMENT SERVICES AGREEMENT.~~

~~(D) “DEBT MANAGEMENT SERVICES” HAS THE MEANING STATED IN § 12–901 OF THE FINANCIAL INSTITUTIONS ARTICLE.~~

~~(E) (1) "DEBT SETTLEMENT SERVICES" MEANS ACTING OR OFFERING OR ATTEMPTING TO ACT FOR CONSIDERATION AS AN INTERMEDIARY BETWEEN A CONSUMER AND THE CONSUMER'S CREDITORS FOR THE PURPOSE OF SETTling OR IN ANY WAY ALTERING THE TERMS OF PAYMENT OF ANY DEBT.~~

~~(2) "DEBT SETTLEMENT SERVICES" DOES NOT INCLUDE DEBT MANAGEMENT SERVICES.~~

~~(F) "DEBT SETTLEMENT SERVICES AGREEMENT" MEANS A WRITTEN CONTRACT, PLAN, OR AGREEMENT BETWEEN A DEBT SETTLEMENT SERVICES PROVIDER AND A CONSUMER FOR THE PERFORMANCE OF DEBT SETTLEMENT SERVICES.~~

~~(G) "DEBT SETTLEMENT SERVICES FEE" MEANS A FEE EARNED BY A DEBT SETTLEMENT SERVICES PROVIDER FOR PERFORMING DEBT SETTLEMENT SERVICES FOR A CONSUMER.~~

~~(H) "DEBT SETTLEMENT SERVICES PROVIDER" MEANS A PERSON THAT PROVIDES OR OFFERS TO PROVIDE DEBT SETTLEMENT SERVICES TO A CONSUMER.~~

~~14-3802.~~

~~THE PROVISIONS OF THIS SUBTITLE ARE IN ADDITION TO AND NOT IN SUBSTITUTION FOR ANY OTHER PROVISION OF LAW.~~

~~14-3803.~~

~~THIS SUBTITLE DOES NOT APPLY TO:~~

~~(1) THE FOLLOWING PERSONS WHEN ENGAGED IN THE REGULAR COURSE OF THEIR RESPECTIVE BUSINESSES AND PROFESSIONS:~~

~~(I) AN ATTORNEY AT LAW WHO IS ADMITTED TO PRACTICE IN THE STATE AND IS NOT PRINCIPALLY ENGAGED IN PROVIDING DEBT SETTLEMENT SERVICES;~~

~~(II) AN ESCROW AGENT;~~

~~(III) A CERTIFIED PUBLIC ACCOUNTANT;~~

~~(IV) A BANKING INSTITUTION, OTHER STATE BANK, NATIONAL BANKING ASSOCIATION, CREDIT UNION, OR SAVINGS AND LOAN ASSOCIATION;~~

~~(V) A PERSON THAT:~~

~~1. PROVIDES A BILL-PAYER SERVICE, AS DEFINED IN § 12-401 OF THE FINANCIAL INSTITUTIONS ARTICLE;~~

~~2. DOES NOT INITIATE ANY CONTRACT WITH INDIVIDUAL CREDITORS OF A DEBTOR TO COMPROMISE A DEBT OR ARRANGE A NEW PAYMENT SCHEDULE; AND~~

~~3. DOES NOT PROVIDE ANY DEBT COUNSELING SERVICES;~~

~~(VI) A PERSON THAT PROVIDES AN ACCELERATED MORTGAGE PAYMENT SERVICE, AS DEFINED IN § 12-401 OF THE FINANCIAL INSTITUTIONS ARTICLE;~~

~~(VII) A TITLE INSURER, TITLE INSURANCE AGENCY, OR ABSTRACT COMPANY; OR~~

~~(VIII) A JUDICIAL OFFICER OR A PERSON ACTING UNDER A COURT ORDER;~~

~~(2) A PERSON WHILE PERFORMING SERVICES INCIDENTAL TO THE DISSOLUTION, WINDING UP, OR LIQUIDATION OF A PARTNERSHIP, CORPORATION, OR OTHER BUSINESS ENTERPRISE;~~

~~(3) A TRADE OR MERCANTILE ASSOCIATION ACTING IN THE COURSE OF ARRANGING THE ADJUSTMENT OF DEBTS WITH A BUSINESS ESTABLISHMENT; OR~~

~~(4) A MORTGAGE LENDER, AS DEFINED IN § 11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE:~~

~~(I) THAT IS LICENSED BY THE COMMISSIONER OF FINANCIAL REGULATION; AND~~

~~(II) WHILE ENGAGED IN THE MORTGAGE LENDING BUSINESS AS DEFINED IN § 11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.~~

~~A PERSON MAY NOT OFFER, PROVIDE, OR ATTEMPT TO PROVIDE DEBT SETTLEMENT SERVICES IN THE STATE EXCEPT AS ALLOWED UNDER THIS SUBTITLE.~~

~~14-3805.~~

~~(A) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION, A DEBT SETTLEMENT SERVICES PROVIDER MAY NOT IMPOSE ANY FEES OR OTHER CHARGES ON A CONSUMER, OR RECEIVE ANY FUNDS OR OTHER PAYMENTS ON BEHALF OF A CONSUMER, IN CONNECTION WITH THE PROVISION OF DEBT SETTLEMENT SERVICES UNTIL AFTER:~~

~~(1) THE DEBT SETTLEMENT SERVICES PROVIDER AND THE CONSUMER HAVE EXECUTED A WRITTEN DEBT SETTLEMENT SERVICES AGREEMENT; AND~~

~~(2) THE DEBT SETTLEMENT SERVICES HAVE BEEN COMPLETED.~~

~~(B) (1) A DEBT SETTLEMENT SERVICES PROVIDER MAY CHARGE A CONSULTATION FEE NOT EXCEEDING \$50.~~

~~(2) THE COST OF A CREDIT REPORT ON A CONSUMER SHALL BE PAID FROM THE CONSULTATION FEE PAID BY THE CONSUMER.~~

~~(C) A DEBT SETTLEMENT SERVICES PROVIDER MAY CHARGE A CONSUMER A FEE NOT EXCEEDING \$50 FOR A COUNSELING SESSION, AN EDUCATIONAL PROGRAM, OR MATERIALS AND SUPPLIES IF THE CONSUMER DOES NOT ENTER INTO A DEBT SETTLEMENT SERVICES AGREEMENT WITH THE DEBT SETTLEMENT SERVICES PROVIDER.~~

~~(D) (1) ON COMPLETION OF DEBT SETTLEMENT SERVICES PROVIDED UNDER A DEBT SETTLEMENT SERVICES AGREEMENT, A DEBT SETTLEMENT SERVICES PROVIDER MAY CHARGE A DEBT SETTLEMENT SERVICES FEE IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.~~

~~(2) THE DEBT SETTLEMENT SERVICES FEE MAY NOT EXCEED 15% OF THE TOTAL AMOUNT BY WHICH THE CONSUMER'S DEBT TO THE CONSUMER'S CREDITORS, AS SPECIFIED IN THE DEBT SETTLEMENT SERVICES AGREEMENT, WAS REDUCED DUE TO THE DEBT SETTLEMENT SERVICES PROVIDED UNDER THE DEBT SETTLEMENT SERVICES AGREEMENT.~~

~~14-3806.~~

~~EXCEPT AS PROVIDED IN § 14-3805(B) AND (C) OF THIS SUBTITLE, A DEBT SETTLEMENT SERVICES PROVIDER MAY NOT CHARGE A FEE TO:~~

- ~~(1) PREPARE A FINANCIAL ANALYSIS OR AN INITIAL BUDGET PLAN FOR A CONSUMER;~~
- ~~(2) COUNSEL A CONSUMER ABOUT DEBT MANAGEMENT OR DEBT SETTLEMENT;~~
- ~~(3) PROVIDE A CONSUMER WITH A CONSUMER EDUCATION PROGRAM; OR~~
- ~~(4) RESCIND A DEBT SETTLEMENT SERVICES AGREEMENT.~~

~~14-3807.~~

~~A DEBT SETTLEMENT SERVICES PROVIDER MAY NOT:~~

- ~~(1) MAKE A REPRESENTATION THAT A CONSUMER'S DEBT WILL BE SETTLED FOR A SPECIFIC AMOUNT OR REDUCED BY A SPECIFIC PERCENTAGE;~~
- ~~(2) REQUIRE OR ADVISE A CONSUMER TO STOP MAKING PAYMENTS TO A CREDITOR OF THE CONSUMER; OR~~
- ~~(3) REQUIRE A VOLUNTARY CONTRIBUTION FROM A CONSUMER FOR ANY SERVICE PROVIDED TO THE CONSUMER BY THE DEBT SETTLEMENT SERVICES PROVIDER.~~

~~14-3808.~~

~~A DEBT SETTLEMENT SERVICES AGREEMENT SHALL:~~

- ~~(1) BE SIGNED AND DATED BY THE DEBT SETTLEMENT SERVICES PROVIDER AND THE CONSUMER;~~
- ~~(2) INCLUDE, IN AT LEAST 12 POINT TYPE:
  - ~~(i) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE CONSUMER;~~
  - ~~(ii) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE DEBT SETTLEMENT SERVICES PROVIDER;~~~~

~~(III) A DESCRIPTION OF THE DEBT SETTLEMENT SERVICES TO BE PROVIDED TO THE CONSUMER AND, SUBJECT TO THE PROVISIONS OF THIS SUBTITLE, ANY FEES TO BE CHARGED TO THE CONSUMER FOR THE DEBT SETTLEMENT SERVICES;~~

~~(IV) THE IDENTITY OF EACH CREDITOR WHOSE DEBTS ARE TO BE SETTLED UNDER THE DEBT SETTLEMENT SERVICES AGREEMENT AND THE AMOUNT OF THE DEBT OWED TO EACH CREDITOR;~~

~~(V) THE NAME AND ADDRESS OF THE FINANCIAL INSTITUTION, IF ANY, IN WHICH FUNDS, DEPOSITED BY OR ON BEHALF OF THE CONSUMER FOR DISBURSEMENT TO THE CONSUMER'S CREDITORS, WILL BE HELD;~~

~~(VI) A DISCLOSURE THAT ENTERING INTO A DEBT SETTLEMENT SERVICES AGREEMENT WILL NOT STOP COLLECTION EFFORTS BY THE CONSUMER'S CREDITORS;~~

~~(VII) A DISCLOSURE THAT A DEBT SETTLEMENT SERVICES PROVIDER IS PROHIBITED BY LAW FROM REPRESENTING THAT IT CAN SETTLE A CONSUMER'S DEBT FOR A SPECIFIED AMOUNT OR REDUCE A CONSUMER'S DEBT BY A SPECIFIED PERCENTAGE;~~

~~(VIII) A DISCLOSURE THAT EXECUTION OF A DEBT SETTLEMENT SERVICES AGREEMENT MAY IMPACT THE CONSUMER'S CREDIT RATING AND CREDIT SCORES;~~

~~(IX) A DISCLOSURE THAT A DEBT SETTLEMENT SERVICES PROVIDER MAY NOT REQUIRE OR ADVISE A CONSUMER TO STOP MAKING PAYMENTS TO ANY CREDITOR OF THE CONSUMER;~~

~~(X) A DISCLOSURE THAT THE CONSUMER MAY BE REQUIRED TO PAY TAXES ON THE AMOUNT BY WHICH THE CONSUMER'S DEBT IS REDUCED; AND~~

~~(XI) A DISCLOSURE THAT A DEBT SETTLEMENT SERVICES PROVIDER MAY NOT REQUIRE A VOLUNTARY CONTRIBUTION FROM A CONSUMER FOR ANY SERVICE PROVIDED TO THE CONSUMER BY THE DEBT SETTLEMENT SERVICES PROVIDER.~~

~~AN ADVERTISEMENT FOR DEBT SETTLEMENT SERVICES SHALL CLEARLY AND CONSPICUOUSLY INCLUDE THE DISCLOSURES SET FORTH IN § 14-3808(2)(VI) THROUGH (X) OF THIS SUBTITLE.~~

~~14-3810.~~

~~A VIOLATION OF THIS SUBTITLE IS:~~

~~(1) AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE; AND~~

~~(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS OF TITLE 13 OF THIS ARTICLE.~~

~~14-3811.~~

~~THIS SUBTITLE MAY BE CITED AS THE DEBT SETTLEMENT SERVICES ACT.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 340

(Senate Bill 704)

AN ACT concerning

### Insurance – Coordination of Benefits – Health Insurance and Personal Injury Protection

FOR the purpose of ~~providing that certain health maintenance organization contracts, health insurance policies, and policies of nonprofit health service plans are subject to certain provisions of law relating to coordination of benefits with personal injury protection coverage under motor vehicle liability insurance policies; prohibiting the contracts and policies from containing~~ authorizing prohibiting certain health maintenance organization contracts, health insurance policies ~~or contracts, and policies or contracts of nonprofit health service plans to contain~~ from containing a provision that requires certain personal injury protection benefits to be paid before benefits under the contracts and policies ~~under certain circumstances; prohibiting a motor vehicle liability insurer from making a payment to a health maintenance organization, an insurer, or a nonprofit health service plan unless a certain authorization is~~

~~provided to the motor vehicle liability insurer; defining the term “insured” or “named insured” for purposes of certain provisions of law relating to personal injury protection coverage to include an individual entitled to hospital, medical, or surgical benefits under certain health insurance policies or contracts; providing for the application of this Act; and generally relating to coordination of health insurance and personal injury protection benefits.~~

BY repealing and reenacting, without amendments,

Article – Health – General  
Section 19–713.1(d)  
Annotated Code of Maryland  
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Health – General  
Section 19–713.1(e)  
Annotated Code of Maryland  
(2009 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Insurance  
Section 15–104(b)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 Supplement)

BY adding to

Article – Insurance  
Section 15–104(d)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 Supplement)

~~BY repealing and reenacting, with amendments,~~

~~Article – Insurance  
Section 19–507  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 Supplement)~~

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

### **Article – Health – General**

19–713.1.

(d) Notwithstanding § 19–701(g)(3) of this subtitle, a contract between a health maintenance organization and its subscribers or a group of subscribers may

contain a provision allowing the health maintenance organization to be subrogated to a cause of action that a subscriber has against another person:

(1) To the extent that any actual payments made by the health maintenance organization result from the occurrence that gave rise to the cause of action; or

(2) For a nonprofit health maintenance organization that exclusively contracts with a group of physicians to provide or to arrange for the provision of health care services for its enrollees, for any service provided by the health maintenance organization as a result of the occurrence that gave rise to the cause of action, per the fee schedule established by the nonprofit health maintenance organization.

(e) (1) Subsection (d) of this section does not allow a contract between a health maintenance organization and its subscribers or a group of subscribers to contain a provision allowing the health maintenance organization to recover any payments made to a subscriber under [a personal injury protection] **THE PERSONAL INJURY PROTECTION COVERAGE OF A MOTOR VEHICLE LIABILITY INSURANCE** policy.

~~(2) A CONTRACT BETWEEN A HEALTH MAINTENANCE ORGANIZATION AND ITS SUBSCRIBERS OR A GROUP OF SUBSCRIBERS:~~

~~(I) IS SUBJECT TO THE PROVISIONS OF § 19-507(C) OF THE INSURANCE ARTICLE; AND~~

~~(II) MAY NOT CONTAIN A PROVISION THAT REQUIRES PERSONAL INJURY PROTECTION BENEFITS UNDER A MOTOR VEHICLE LIABILITY INSURANCE POLICY TO BE PAID BEFORE BENEFITS UNDER THE CONTRACT.~~

(2) SUBJECT TO § 19-507(C)(3) OF THE INSURANCE ARTICLE, A CONTRACT BETWEEN A HEALTH MAINTENANCE ORGANIZATION AND ITS SUBSCRIBERS OR A GROUP OF SUBSCRIBERS MAY NOT CONTAIN A PROVISION THAT REQUIRES PERSONAL INJURY PROTECTION BENEFITS UNDER A MOTOR VEHICLE LIABILITY INSURANCE POLICY TO BE PAID BEFORE BENEFITS UNDER THE CONTRACT.

#### Article – Insurance

15–104.

(b) In accordance with regulations that the Commissioner adopts, the Commissioner shall allow health insurance policies and policies of nonprofit health service plans to contain nonduplication provisions or provisions to coordinate coverage with:

- (1) other health insurance policies, including commercial individual, group, and blanket policies and policies of nonprofit health service plans;
- (2) subscriber contracts that are issued by health maintenance organizations; and
- (3) other established programs under which the insured may make a claim.

~~(D) HEALTH INSURANCE POLICIES AND POLICIES OF NONPROFIT HEALTH SERVICE PLANS:~~

~~(1) ARE SUBJECT TO THE PROVISIONS OF § 19-507(C) OF THIS ARTICLE; AND~~

~~(2) MAY NOT CONTAIN A PROVISION THAT REQUIRES PERSONAL INJURY PROTECTION BENEFITS UNDER A MOTOR VEHICLE LIABILITY INSURANCE POLICY TO BE PAID BEFORE BENEFITS UNDER THE POLICIES.~~

~~(D) SUBJECT TO § 19-507(C)(3) OF THIS ARTICLE, A POLICY OR CONTRACT BETWEEN AN INSURER OR A NONPROFIT HEALTH SERVICE PLAN AND ITS INSURERS INSUREDS OR SUBSCRIBERS OR A GROUP OF INSURED INSUREDS OR SUBSCRIBERS MAY HEALTH INSURANCE POLICIES AND POLICIES OF NONPROFIT HEALTH SERVICE PLANS MAY NOT CONTAIN A PROVISION THAT REQUIRES PERSONAL INJURY PROTECTION BENEFITS UNDER A MOTOR VEHICLE LIABILITY INSURANCE POLICY TO BE PAID BEFORE BENEFITS UNDER THE POLICY OR CONTRACT POLICIES.~~

~~19-507.~~

~~(A) IN THIS SECTION, "INSURED" OR "NAMED INSURED" INCLUDES AN INDIVIDUAL ENTITLED TO HOSPITAL, MEDICAL, OR SURGICAL BENEFITS UNDER A HEALTH INSURANCE POLICY OR CONTRACT ISSUED BY:~~

- ~~(1) AN INSURER;~~
- ~~(2) A NONPROFIT HEALTH SERVICE PLAN; OR~~
- ~~(3) A HEALTH MAINTENANCE ORGANIZATION.~~

~~[(a)] (B) The benefits described in § 19-505 of this subtitle shall be payable without regard to:~~

- ~~(1) the fault or nonfault of the named insured or the recipient of benefits in causing or contributing to the motor vehicle accident; and~~

~~(2) any collateral source of medical, hospital, or wage continuation benefits.~~

~~[(b)](C) (1) Subject to paragraph PARAGRAPHS (2) AND (3) of this subsection, if the insured has both coverage for the benefits described in § 19-505 of this subtitle and a collateral source of medical, hospital, or wage continuation benefits, the insurer or insurers may coordinate the policies to provide for nonduplication of benefits, subject to appropriate reductions in premiums for one or both of the policies approved by the Commissioner.~~

~~(2) The named insured may:~~

~~(i) elect to coordinate the policies by indicating in writing which policy is to be the primary policy; or~~

~~(ii) reject the coordination of policies and nonduplication of benefits.~~

~~**(3) THE MOTOR VEHICLE LIABILITY INSURER MAY NOT MAKE A PAYMENT TO A HEALTH MAINTENANCE ORGANIZATION, AN INSURER, OR A NONPROFIT HEALTH SERVICE PLAN UNLESS THE HEALTH MAINTENANCE ORGANIZATION, INSURER, OR NONPROFIT HEALTH SERVICE PLAN PROVIDES THE MOTOR VEHICLE LIABILITY INSURER WRITTEN AUTHORIZATION FOR THE PAYMENT FROM THE INSURED.**~~

~~[(e)](D) An insurer that issues a policy that contains the coverage described in § 19-505 of this subtitle may not impose a surcharge or retire the policy for a claim or payment made under that coverage and, at the time the policy is issued, shall notify the policyholder in writing that a surcharge may not be imposed and the policy may not be retired for a claim or payment made under that coverage.~~

~~[(d)](E) An insurer that provides the benefits described in § 19-505 of this subtitle does not have a right of subrogation and does not have a claim against any other person or insurer to recover any benefits paid because of the alleged fault of the other person in causing or contributing to a motor vehicle accident.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2010.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

**Chapter 341****(House Bill 1073)**

AN ACT concerning

**Insurance – Coordination of Benefits – Health Insurance and Personal Injury Protection**

FOR the purpose of ~~providing that~~ prohibiting certain health maintenance organization contracts, health insurance policies, and policies of nonprofit health service plans ~~are subject to certain provisions of law relating to coordination of benefits with personal injury protection coverage under motor vehicle liability insurance policies; prohibiting the contracts and policies from~~ containing a provision that requires certain personal injury protection benefits to be paid before benefits under the contracts and policies; ~~defining the term “insured” or “named insured” for purposes of certain provisions of law relating to personal injury protection coverage to include an individual entitled to hospital, medical, or surgical benefits under certain health insurance policies or contracts;~~ providing for the application of this Act; and generally relating to coordination of health insurance and personal injury protection benefits.

BY repealing and reenacting, without amendments,

Article – Health – General  
Section 19–713.1(d)  
Annotated Code of Maryland  
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Health – General  
Section 19–713.1(e)  
Annotated Code of Maryland  
(2009 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Insurance  
Section 15–104(b)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 Supplement)

BY adding to

Article – Insurance  
Section 15–104(d)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 Supplement)

~~BY repealing and reenacting, with amendments,  
 Article – Insurance  
 Section 19–507  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2009 Supplement)~~

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

**Article – Health – General**

19–713.1.

(d) Notwithstanding § 19–701(g)(3) of this subtitle, a contract between a health maintenance organization and its subscribers or a group of subscribers may contain a provision allowing the health maintenance organization to be subrogated to a cause of action that a subscriber has against another person:

(1) To the extent that any actual payments made by the health maintenance organization result from the occurrence that gave rise to the cause of action; or

(2) For a nonprofit health maintenance organization that exclusively contracts with a group of physicians to provide or to arrange for the provision of health care services for its enrollees, for any service provided by the health maintenance organization as a result of the occurrence that gave rise to the cause of action, per the fee schedule established by the nonprofit health maintenance organization.

(e) **(1)** Subsection (d) of this section does not allow a contract between a health maintenance organization and its subscribers or a group of subscribers to contain a provision allowing the health maintenance organization to recover any payments made to a subscriber under [a personal injury protection] **THE PERSONAL INJURY PROTECTION COVERAGE OF A MOTOR VEHICLE LIABILITY INSURANCE** policy.

**(2) A CONTRACT BETWEEN A HEALTH MAINTENANCE ORGANIZATION AND ITS SUBSCRIBERS OR A GROUP OF SUBSCRIBERS:**

~~**(1) IS SUBJECT TO THE PROVISIONS OF § 19–507(C) OF THE INSURANCE ARTICLE; AND**~~

~~**(1) MAY MAY NOT CONTAIN A PROVISION THAT REQUIRES PERSONAL INJURY PROTECTION BENEFITS UNDER A MOTOR VEHICLE LIABILITY INSURANCE POLICY TO BE PAID BEFORE BENEFITS UNDER THE CONTRACT.**~~

## Article – Insurance

15–104.

(b) In accordance with regulations that the Commissioner adopts, the Commissioner shall allow health insurance policies and policies of nonprofit health service plans to contain nonduplication provisions or provisions to coordinate coverage with:

- (1) other health insurance policies, including commercial individual, group, and blanket policies and policies of nonprofit health service plans;
- (2) subscriber contracts that are issued by health maintenance organizations; and
- (3) other established programs under which the insured may make a claim.

**(D) HEALTH INSURANCE POLICIES AND POLICIES OF NONPROFIT HEALTH SERVICE PLANS:**

~~(1) ARE SUBJECT TO THE PROVISIONS OF § 19-507(C) OF THIS ARTICLE; AND~~

~~(2) MAY NOT CONTAIN A PROVISION THAT REQUIRES PERSONAL INJURY PROTECTION BENEFITS UNDER A MOTOR VEHICLE LIABILITY INSURANCE POLICY TO BE PAID BEFORE BENEFITS UNDER THE POLICIES.~~

~~19-507.~~

~~(A) IN THIS SECTION, “INSURED” OR “NAMED INSURED” INCLUDES AN INDIVIDUAL ENTITLED TO HOSPITAL, MEDICAL, OR SURGICAL BENEFITS UNDER A HEALTH INSURANCE POLICY OR CONTRACT ISSUED BY:~~

- ~~(1) AN INSURER;~~
- ~~(2) A NONPROFIT HEALTH SERVICE PLAN; OR~~
- ~~(3) A HEALTH MAINTENANCE ORGANIZATION.~~

~~[(a)] (B) The benefits described in § 19-505 of this subtitle shall be payable without regard to:~~

- ~~(1) the fault or nonfault of the named insured or the recipient of benefits in causing or contributing to the motor vehicle accident; and~~

~~(2) any collateral source of medical, hospital, or wage continuation benefits.~~

~~[(b)] (C) (1) Subject to paragraph (2) of this subsection, if the insured has both coverage for the benefits described in § 19-505 of this subtitle and a collateral source of medical, hospital, or wage continuation benefits, the insurer or insurers may coordinate the policies to provide for nonduplication of benefits, subject to appropriate reductions in premiums for one or both of the policies approved by the Commissioner.~~

~~(2) The named insured may:~~

~~(i) elect to coordinate the policies by indicating in writing which policy is to be the primary policy; or~~

~~(ii) reject the coordination of policies and nonduplication of benefits.~~

~~[(e)] (D) An insurer that issues a policy that contains the coverage described in § 19-505 of this subtitle may not impose a surcharge or retire the policy for a claim or payment made under that coverage and, at the time the policy is issued, shall notify the policyholder in writing that a surcharge may not be imposed and the policy may not be retired for a claim or payment made under that coverage.~~

~~[(d)] (E) An insurer that provides the benefits described in § 19-505 of this subtitle does not have a right of subrogation and does not have a claim against any other person or insurer to recover any benefits paid because of the alleged fault of the other person in causing or contributing to a motor vehicle accident.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2010.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 342

(Senate Bill 715)

AN ACT concerning

**State Government – Commemorative Days – Fire, Rescue, and Emergency  
Services Workers**

FOR the purpose of requiring the Governor to proclaim a certain day in June each year as the day to honor certain fire, rescue, and emergency services workers in the State; requiring the Governor to order the State flag to be flown at half-staff on a certain day in June each year; requiring certain memorial plaques to be placed by a certain organization on a certain memorial in a certain city on a certain day in June each year; and generally relating to the commemoration of fire, rescue, and emergency services workers.

BY adding to

Article – State Government  
Section 13–409  
Annotated Code of Maryland  
(2009 Replacement Volume)

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

**Article – State Government**

**13–409.**

**(A) THE GOVERNOR SHALL PROCLAIM THE FIRST SUNDAY IN JUNE EACH YEAR AS THE DAY TO HONOR THE FIRE, RESCUE, AND EMERGENCY SERVICES WORKERS OF THE STATE WHO MADE THE ULTIMATE SACRIFICE IN THE PERFORMANCE OF THEIR DUTIES.**

**(B) THE GOVERNOR SHALL ORDER THE STATE FLAG TO BE FLOWN AT HALF-STAFF ON THE FIRST SUNDAY IN JUNE EACH YEAR.**

**(C) ON THE FIRST SUNDAY IN JUNE EACH YEAR, MEMORIAL PLAQUES CONTAINING THE NAMES OF THE FIRE, RESCUE, AND EMERGENCY SERVICES WORKERS WHO MADE THE ULTIMATE SACRIFICE SHALL BE PLACED BY THE MARYLAND FIRE-RESCUE SERVICES MEMORIAL FOUNDATION, INC., ON THE MARYLAND FIRE-RESCUE SERVICES MEMORIAL IN THE CITY OF ANNAPOLIS.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

**Approved by the Governor, May 4, 2010.**

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**Chapter 343****(House Bill 910)**

AN ACT concerning

**State Government – Commemorative Days – Fire, Rescue, and Emergency Services Workers**

FOR the purpose of requiring the Governor to proclaim a certain day in June each year as the day to honor certain fire, rescue, and emergency services workers in the State; requiring the Governor to order the State flag to be flown at half-staff on a certain day in June each year; requiring certain memorial plaques to be placed by a certain organization on a certain memorial in a certain city on a certain day in June each year; and generally relating to the commemoration of fire, rescue, and emergency services workers.

BY adding to

Article – State Government  
Section 13–409  
Annotated Code of Maryland  
(2009 Replacement Volume)

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

**Article – State Government**

**13–409.**

**(A) THE GOVERNOR SHALL PROCLAIM THE FIRST SUNDAY IN JUNE EACH YEAR AS THE DAY TO HONOR THE FIRE, RESCUE, AND EMERGENCY SERVICES WORKERS OF THE STATE WHO MADE THE ULTIMATE SACRIFICE IN THE PERFORMANCE OF THEIR DUTIES.**

**(B) THE GOVERNOR SHALL ORDER THE STATE FLAG TO BE FLOWN AT HALF-STAFF ON THE FIRST SUNDAY IN JUNE EACH YEAR.**

**(C) ON THE FIRST SUNDAY IN JUNE EACH YEAR, MEMORIAL PLAQUES CONTAINING THE NAMES OF THE FIRE, RESCUE, AND EMERGENCY SERVICES WORKERS WHO MADE THE ULTIMATE SACRIFICE SHALL BE PLACED BY THE MARYLAND FIRE-RESCUE SERVICES MEMORIAL FOUNDATION, INC., ON THE MARYLAND FIRE-RESCUE SERVICES MEMORIAL IN THE CITY OF ANNAPOLIS.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 4, 2010.

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**Chapter 344**

**(Senate Bill 748)**

AN ACT concerning

**Somerset County, Wicomico County, and Worcester County, and Somerset County – Board Boards of Elections – Membership**

FOR the purpose of altering the Somerset County Board of Elections, number of regular members of the Wicomico County Board of Elections, and the Worcester County Board of Elections, and the Somerset County Board of Elections; requiring the members of the local board boards to be of certain political parties; requiring that a vacancy on the local board boards be filled in a certain manner; making a conforming change; providing for a delayed effective date; and generally relating to the membership of the Somerset County Board of Elections, Wicomico County Board of Elections, and the Worcester County Board of Elections, and the Somerset County Board of Elections.

BY repealing and reenacting, with amendments,

Article – Election Law

Section 2–201

Annotated Code of Maryland

(2003 Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,

Article – Election Law

Section ~~2–204(a)(23)~~ 2–204(a)(20), (23), and (24) and (b)(1) and (2)(i)

Annotated Code of Maryland

(2003 Volume and 2009 Supplement)

BY repealing

Article – Election Law

Section 2–204(b)(2)(ii)7.

Annotated Code of Maryland

(2003 Volume and 2009 Supplement)

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

**Article – Election Law**

2–201.

(a) (1) There is a county board of elections in each county of the State.

(2) Each local board and its staff is subject to the direction and authority of the State Board and is accountable to the State Board for its actions in all matters regarding the implementation of the requirements of this article and any applicable federal law.

(b) (1) Except as provided in subsections [(j) and (k)] **(J), (K), AND (L)** of this section, each local board consists of three regular members and two substitute members.

(2) Two regular members and one substitute member shall be of the majority party, and one regular member and one substitute member shall be of the principal minority party.

(3) **[In] EXCEPT AS PROVIDED IN SUBSECTION (L) OF THIS SECTION,** IN the event of the absence of a regular member or a vacancy in the office of a regular member, the substitute member of the same political party shall exercise the powers and duties of a regular member until the regular member returns or the vacancy is filled as prescribed in subsection (h) of this section.

(c) Each regular and substitute member of a local board shall:

(1) be appointed in accordance with subsection (g) of this section;

(2) be a registered voter in the county for which the individual is appointed for the 5 years immediately preceding the appointment; and

(3) be eligible for reappointment.

(d) (1) The term of a member is 4 years and begins on the first Monday in June of each year following a gubernatorial election.

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

(e) Before taking office, a member shall take and subscribe to the oath prescribed in Article I, § 9 of the Maryland Constitution.

(f) The Governor may remove a member for incompetence, misconduct, or other good cause, upon written charges stating the Governor's grounds for dismissal and after affording the member notice and an ample opportunity to be heard.

(g) (1) The Governor shall request the county central committee representing the majority party or the principal minority party, as appropriate, to

submit a list of at least four eligible individuals from which the Governor may make an appointment of a regular member or a substitute member of the local board.

(2) The Governor may reject all of the nominees if the Governor determines them to be unfit or incompetent, in which case the Governor shall notify the State Board in writing and request an additional list of at least four eligible nominees from the county central committee. A third list may be requested in the same manner.

(3) If a list containing the names of four eligible nominees is not submitted within 20 days of a request or if all the nominees on three lists are rejected, the Governor may appoint any eligible person who is a member of the appropriate political party.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, each appointment shall be subject to confirmation by the Senate of Maryland.

(ii) In Caroline, Dorchester, and Kent counties, if there is no resident Senator of the particular county, the confirmation required under subparagraph (i) of this paragraph shall be by the House of Delegates of Maryland.

(iii) If an appointee is rejected, the Governor shall make another appointment from the list or lists submitted under paragraphs (1) and (2) of this subsection. If a list is not provided, or the nominees on three lists are rejected, the Governor may appoint an eligible individual as provided in paragraph (3) of this subsection.

(h) (1) Except as provided in subsections [(j) and (k)] **(J), (K), AND (L)** of this section, if a member of a local board dies, resigns, is removed, or becomes ineligible:

(i) the substitute member belonging to the same political party shall become a regular member of the local board; and

(ii) the Governor shall appoint an eligible person from the same political party to be the new substitute member.

(2) If a substitute member of a local board becomes a regular member as provided in paragraph (1)(ii) of this subsection, dies, resigns, is removed, or becomes ineligible when the confirming legislative body is not in session, the Governor shall appoint an eligible person from the same political party as the predecessor substitute member to fill the vacancy. That individual shall serve until the earlier of:

(i) the adjournment of the next session of the General Assembly; or

(ii) the appointment of another individual to fill the same vacancy.

(i) A board shall meet within 20 days after the beginning of the term to elect one of its regular members as president.

(j) (1) In Prince George's County, the local board consists of five regular members and three substitute members.

(2) Four regular members and two substitute members shall be of the majority party, and one regular member and one substitute member shall be of the principal minority party.

(3) If a vacancy occurs on the local board among the members from the majority party, the Governor shall designate one of the substitute members from that party to fill the vacancy.

(k) (1) In Montgomery County, the local board consists of five regular members and two substitute members.

(2) Three regular members and one substitute member shall be of the majority party, and two regular members and one substitute member shall be of the principal minority party.

**(L) (1) IN ~~SOMERSET COUNTY,~~ WICOMICO COUNTY, ~~AND WORCESTER COUNTY, AND SOMERSET COUNTY,~~ THE LOCAL BOARD CONSISTS OF FIVE REGULAR MEMBERS.**

**(2) THREE REGULAR MEMBERS SHALL BE OF THE MAJORITY PARTY, AND TWO REGULAR MEMBERS SHALL BE OF THE PRINCIPAL MINORITY PARTY.**

**(3) (I) IF A VACANCY OCCURS ON THE LOCAL BOARD, THE GOVERNOR SHALL APPOINT AN ELIGIBLE PERSON FROM THE SAME POLITICAL PARTY AS THE PREDECESSOR MEMBER TO FILL THE VACANCY IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION FOR THE REMAINDER OF THE UNEXPIRED TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

**(II) AN APPOINTMENT MADE WHILE THE SENATE OF MARYLAND IS NOT IN SESSION SHALL BE CONSIDERED TEMPORARY UNTIL THE APPOINTEE IS CONFIRMED BY THE SENATE.**

(a) Each regular member of a local board shall receive the salary and reimbursement of expenses provided in the county budget, but in no event may the annual compensation be less than the following amounts:

(20) in Somerset County, \$1,000;

(23) in Wicomico County, \$2,400 for the president and \$1,800 for other regular members; and

(24) in Worcester County, \$1,500 for the president and \$1,200 for other regular members.

(b) (1) Consistent with paragraph (2) of this subsection, each substitute member shall be compensated for each day of service as provided in the county budget.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, a substitute member shall be compensated at a rate of at least \$25 for each meeting of the local board that the substitute member attends.

(ii) [7. In Wicomico County, a substitute member shall be paid at least \$1,200 annually.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 6, 2011.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 345**

**(Senate Bill 758)**

AN ACT concerning

### **Education – Early Learning Challenge Fund – Application for Grants**

FOR the purpose of requiring the State Department of Education to apply for grants from the Early Learning Challenge Fund; requiring the Department to take certain actions before submitting an application; requiring the application to contain certain information; making this Act subject to a certain contingency; and generally relating to the application for grants from the Early Learning Challenge Fund.

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

(a) The State Department of Education shall seek federal funds for early learning initiatives by submitting an application for grants from the Early Learning Challenge Fund.

(b) Before submitting an application for grants from the Early Learning Challenge Fund, the Department shall identify the conditions necessary for a competitive application and shall identify actions necessary to remove impediments to being competitive.

(c) (1) In the application for grants from the Early Learning Challenge Fund, the Department shall describe the ways it seeks to build a comprehensive, high-quality, early learning system for children birth to age five.

(2) The application shall include all of the information required for the Early Learning Challenge Fund, which may include information on the following:

- (i) early learning standards reform;
- (ii) evidence-based program quality standards;
- (iii) enhanced program review and monitoring of program quality;
- (iv) comprehensive professional development;
- (v) a coordinated system for facilitating screenings for disability, health, and mental health needs;
- (vi) improved support to parents;
- (vii) a process for assessing children's school readiness; and
- (viii) using data to improve child learning outcomes.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010, contingent on the taking effect of federal legislation enacting the Early Learning Challenge Fund, and if federal legislation enacting the Early Learning Challenge Fund does not become effective before October 1, 2010, this Act shall be null and void without the necessity of further action by the General Assembly.

**Approved by the Governor, May 4, 2010.**

AN ACT concerning

**Education – Early Learning Challenge Fund – Application for Grants**

FOR the purpose of requiring the State Department of Education to apply for grants from the Early Learning Challenge Fund; requiring the Department to take certain actions before submitting an application; requiring the application to contain certain information; making this Act subject to a certain contingency; and generally relating to the application for grants from the Early Learning Challenge Fund.

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

(a) The State Department of Education shall seek federal funds for early learning initiatives by submitting an application for grants from the Early Learning Challenge Fund.

(b) Before submitting an application for grants from the Early Learning Challenge Fund, the Department shall identify the conditions necessary for a competitive application and shall identify actions necessary to remove impediments to being competitive.

(c) (1) In the application for grants from the Early Learning Challenge Fund, the Department shall describe the ways it seeks to build a comprehensive, high-quality, early learning system for children birth to age five.

(2) The application shall include all of the information required for the Early Learning Challenge Fund, which may include information on the following:

- (i) early learning standards reform;
- (ii) evidence-based program quality standards;
- (iii) enhanced program review and monitoring of program quality;
- (iv) comprehensive professional development;
- (v) a coordinated system for facilitating screenings for disability, health, and mental health needs;
- (vi) improved support to parents;
- (vii) a process for assessing children's school readiness; and

(viii) using data to improve child learning outcomes.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010, contingent on the taking effect of federal legislation enacting the Early Learning Challenge Fund, and if federal legislation enacting the Early Learning Challenge Fund does not become effective before October 1, 2010, this Act shall be null and void without the necessity of further action by the General Assembly.

**Approved by the Governor, May 4, 2010.**

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## Chapter 347

(Senate Bill 761)

AN ACT concerning

### **Mental Health – Local Correctional Facilities – Incarcerated Individuals with Mental Illness**

FOR the purpose of requiring the managing official of a local correctional facility to provide access to a certain amount of medication to certain individuals under certain circumstances; providing that part of a certain supply of medication may be provided by prescription under certain circumstances; establishing immunity from civil liability for certain persons; creating a certain exception; and generally relating to mental health treatment for incarcerated individuals.

~~BY adding to~~

~~Article – Correctional Services~~

~~Section 11–206~~

~~Annotated Code of Maryland~~

~~(2008 Replacement Volume and 2009 Supplement)~~

BY repealing and reenacting, with amendments,

Article – Correctional Services

Section 9–612

Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

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

### **Article – Correctional Services**

~~11–206.~~

~~(A) THIS SECTION DOES NOT APPLY TO PRETRIAL INMATES.~~

~~(B) THE MANAGING OFFICIAL OF A LOCAL CORRECTIONAL FACILITY SHALL PROVIDE AN INMATE WHO HAS BEEN INCARCERATED IN A LOCAL CORRECTIONAL FACILITY FOR AT LEAST 60 DAYS AND WHO HAS BEEN DIAGNOSED WITH A MENTAL ILLNESS WITH ACCESS TO A 30 DAY SUPPLY OF MEDICATION FOR THE MENTAL ILLNESS ON THE RELEASE OF THE INMATE.~~

~~(C) PART OF THE 30 DAY SUPPLY OF MEDICATION PROVIDED UNDER SUBSECTION (B) OF THIS SECTION MAY BE PROVIDED BY PRESCRIPTION IF THE INMATE IS PROVIDED SUFFICIENT MEDICATION ON RELEASE THAT ENABLES THE INMATE TO REMAIN MEDICATION COMPLIANT UNTIL ADDITIONAL MEDICATION BECOMES AVAILABLE FROM FILLING THE PRESCRIPTION.~~

~~(D) THIS SECTION SHALL APPLY ONLY IF A TREATING PHYSICIAN DETERMINES THAT:~~

~~(1) THE RELEASED INMATE'S POSSESSION OF MEDICATION IN THE QUANTITY PRESCRIBED IS IN THE BEST INTEREST OF THE INMATE; AND~~

~~(2) POSSESSION OF THE PRESCRIBED MEDICATION WILL NOT CONSTITUTE A DANGER TO THE RELEASED INMATE.~~

~~(E) A LOCAL CORRECTIONAL FACILITY, AN EMPLOYEE OF A LOCAL CORRECTIONAL FACILITY, OR AN AGENT OF A LOCAL CORRECTIONAL FACILITY, INCLUDING A PHYSICIAN OR CORPORATE ENTITY PROVIDING MEDICAL SERVICES TO INMATES ON BEHALF OF THE LOCAL CORRECTIONAL FACILITY, MAY NOT BE HELD LIABLE UNDER THIS SECTION FOR ISSUING MEDICATION OR A PRESCRIPTION FOR MEDICATION TO AN INMATE ON THE INMATE'S RELEASE, NOTWITHSTANDING THAT THE RELEASED INMATE:~~

~~(1) IS NO LONGER UNDER THE CARE OR SUPERVISION OF THE PRESCRIBING PHYSICIAN; AND~~

~~(2) MAY BE WITHOUT MEDICAL SUPERVISION FOR THE PERIOD DURING WHICH THE MEDICATION HAS BEEN PROVIDED OR PRESCRIBED.~~

9-612.

(a) The Department OR THE MANAGING OFFICIAL OF A LOCAL CORRECTIONAL FACILITY shall provide an inmate who has been sentenced to a term of incarceration in the Division of Correction OR A TERM OF AT LEAST 60 DAYS IN A LOCAL CORRECTIONAL FACILITY and who has been diagnosed with a mental illness

with access to a 30–day supply of medication for the mental illness on the release of the inmate.

(b) SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO PRETRIAL INMATES.

(C) Part of the 30–day supply of medication provided under subsection (a) of this section may be provided by prescription if the inmate is provided sufficient medication on release that enables the inmate to remain medication–compliant until additional medication becomes available from filling the prescription.

[(c)] (D) This section shall apply only if a treating physician determines that:

(1) the released inmate’s possession of medication in the quantity prescribed is in the best interest of the inmate; and

(2) possession of the prescribed medication will not constitute a danger to the released inmate.

[(d)] (E) The Department, an employee of the Department, A LOCAL CORRECTIONAL FACILITY, AN EMPLOYEE OF A LOCAL CORRECTIONAL FACILITY, or an agent of the Department OR LOCAL CORRECTIONAL FACILITY, including a physician or corporate entity providing medical services to inmates on behalf of the Department OR LOCAL CORRECTIONAL FACILITY, may not be held liable under this section for issuing medication or a prescription for medication to an inmate on the inmate’s release notwithstanding that the released inmate:

(1) is no longer under the care or supervision of the prescribing physician; and

(2) may be without medical supervision for the period during which the medication has been administered.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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Chapter 348

(House Bill 1335)

AN ACT concerning

## Mental Health – Local Correctional Facilities – Incarcerated Individuals with Mental Illness

FOR the purpose of requiring the managing official of a local correctional facility to provide access to a certain amount of medication to certain individuals under certain circumstances; providing that part of a certain supply of medication may be provided by prescription under certain circumstances; establishing immunity from civil liability for certain persons; creating a certain exception; and generally relating to mental health treatment for incarcerated individuals.

~~BY adding to~~

~~Article – Correctional Services~~

~~Section 11-206~~

~~Annotated Code of Maryland~~

~~(2008 Replacement Volume and 2009 Supplement)~~

BY repealing and reenacting, with amendments,

Article – Correctional Services

Section 9-612

Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

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

### Article – Correctional Services

~~11-206.~~

~~(A) THIS SECTION DOES NOT APPLY TO PRETRIAL INMATES.~~

~~(B) THE MANAGING OFFICIAL OF A LOCAL CORRECTIONAL FACILITY SHALL PROVIDE AN INMATE WHO HAS BEEN INCARCERATED IN A LOCAL CORRECTIONAL FACILITY FOR AT LEAST 60 DAYS AND WHO HAS BEEN DIAGNOSED WITH A MENTAL ILLNESS WITH ACCESS TO A 30 DAY SUPPLY OF MEDICATION FOR THE MENTAL ILLNESS ON THE RELEASE OF THE INMATE.~~

~~(C) PART OF THE 30 DAY SUPPLY OF MEDICATION PROVIDED UNDER SUBSECTION (B) OF THIS SECTION MAY BE PROVIDED BY PRESCRIPTION IF THE INMATE IS PROVIDED SUFFICIENT MEDICATION ON RELEASE THAT ENABLES THE INMATE TO REMAIN MEDICATION COMPLIANT UNTIL ADDITIONAL MEDICATION BECOMES AVAILABLE FROM FILLING THE PRESCRIPTION.~~

~~(D) THIS SECTION SHALL APPLY ONLY IF A TREATING PHYSICIAN DETERMINES THAT:~~

~~(1) THE RELEASED INMATE'S POSSESSION OF MEDICATION IN THE QUANTITY PRESCRIBED IS IN THE BEST INTEREST OF THE INMATE; AND~~

~~(2) POSSESSION OF THE PRESCRIBED MEDICATION WILL NOT CONSTITUTE A DANGER TO THE RELEASED INMATE.~~

~~(E) A LOCAL CORRECTIONAL FACILITY, AN EMPLOYEE OF A LOCAL CORRECTIONAL FACILITY, OR AN AGENT OF A LOCAL CORRECTIONAL FACILITY, INCLUDING A PHYSICIAN OR CORPORATE ENTITY PROVIDING MEDICAL SERVICES TO INMATES ON BEHALF OF THE LOCAL CORRECTIONAL FACILITY, MAY NOT BE HELD LIABLE UNDER THIS SECTION FOR ISSUING MEDICATION OR A PRESCRIPTION FOR MEDICATION TO AN INMATE ON THE INMATE'S RELEASE, NOTWITHSTANDING THAT THE RELEASED INMATE:~~

~~(1) IS NO LONGER UNDER THE CARE OR SUPERVISION OF THE PRESCRIBING PHYSICIAN; AND~~

~~(2) MAY BE WITHOUT MEDICAL SUPERVISION FOR THE PERIOD DURING WHICH THE MEDICATION HAS BEEN PROVIDED OR PRESCRIBED.~~

9-612.

(a) The Department OR THE MANAGING OFFICIAL OF A LOCAL CORRECTIONAL FACILITY shall provide an inmate who has been sentenced to a term of incarceration in the Division of Correction OR A TERM OF AT LEAST 60 DAYS IN A LOCAL CORRECTIONAL FACILITY and who has been diagnosed with a mental illness with access to a 30-day supply of medication for the mental illness on the release of the inmate.

(B) SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO PRETRIAL INMATES.

[(b)] (C) Part of the 30-day supply of medication provided under subsection (a) of this section may be provided by prescription if the inmate is provided sufficient medication on release that enables the inmate to remain medication-compliant until additional medication becomes available from filling the prescription.

[(c)] (D) This section shall apply only if a treating physician determines that:

(1) the released inmate's possession of medication in the quantity prescribed is in the best interest of the inmate; and

(2) possession of the prescribed medication will not constitute a danger to the released inmate.

[(d)] (E) The Department, an employee of the Department, A LOCAL CORRECTIONAL FACILITY, AN EMPLOYEE OF A LOCAL CORRECTIONAL FACILITY, or an agent of the Department OR LOCAL CORRECTIONAL FACILITY, including a physician or corporate entity providing medical services to inmates on behalf of the Department OR LOCAL CORRECTIONAL FACILITY, may not be held liable under this section for issuing medication or a prescription for medication to an inmate on the inmate's release notwithstanding that the released inmate:

(1) is no longer under the care or supervision of the prescribing physician; and

(2) may be without medical supervision for the period during which the medication has been administered.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 349

(Senate Bill 782)

AN ACT concerning

~~Mortgage Foreclosure Bankruptcy Exemption~~  
~~Homestead Exemption – Bankruptcy~~

FOR the purpose of authorizing an individual to claim a certain exemption in a certain bankruptcy proceeding; providing that the exemption may be for a certain amount in an individual's interest in owner-occupied, residential real property; prohibiting an individual from claiming the exemption under certain conditions; ~~limiting the exemption to apply to claims by unsecured creditors; prohibiting~~ authorizing ~~prohibiting~~ both a husband and wife ~~from claiming to claim from~~ claiming the exemption in the same proceeding; ~~making conforming changes;~~ making a clarifying change; providing for the application of this Act; and generally relating to debtor exemptions in bankruptcy proceedings.

BY repealing and reenacting, with amendments,

Article – Courts and Judicial Proceedings  
Section 11–504  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 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**

11–504.

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

(2) “Value” means fair market value as of the date upon which the execution or other judicial process becomes effective against the property of the debtor, or the date of filing the petition under the federal Bankruptcy Code.

(b) The following items are exempt from execution on a judgment:

(1) Wearing apparel, books, tools, instruments, or appliances, in an amount not to exceed \$5,000 in value necessary for the practice of any trade or profession except those kept for sale, lease, or barter.

(2) Money payable in the event of sickness, accident, injury, or death of any person, including compensation for loss of future earnings. This exemption includes but is not limited to money payable on account of judgments, arbitrations, compromises, insurance, benefits, compensation, and relief. Disability income benefits are not exempt if the judgment is for necessities contracted for after the disability is incurred.

(3) Professionally prescribed health aids for the debtor or any dependent of the debtor.

(4) The debtor’s interest, not to exceed \$1,000 in value, in household furnishings, household goods, wearing apparel, appliances, books, animals kept as pets, and other items that are held primarily for the personal, family, or household use of the debtor or any dependent of the debtor.

(5) Cash or property of any kind equivalent in value to \$6,000 is exempt, if within 30 days from the date of the attachment or the levy by the sheriff, the debtor elects to exempt cash or selected items of property in an amount not to exceed a cumulative value of \$6,000.

(6) Money payable or paid in accordance with an agreement or court order for child support.

(7) Money payable or paid in accordance with an agreement or court order for alimony to the same extent that wages are exempt from attachment under § 15-601.1(b)(1)(ii) or (2)(i) of the Commercial Law Article.

(c) (1) In order to determine whether the property listed in subsection (b)(4) and (5) of this section is subject to execution, the sheriff shall appraise the property at the time of levy. The sheriff shall return the appraisal with the writ.

(2) An appraisal made by the sheriff under this subsection is subject to review by the court on motion of the debtor.

(3) Procedures will be as prescribed by rules issued by the Court of Appeals.

(d) The debtor may not waive, by cognovit note or otherwise, the provisions of subsections (b) and (h) of this section.

(e) The exemptions in this section do not apply to wage attachments.

(f) (1) In addition to the exemptions provided in subsection (b) of this section, and in other statutes of this State, in any proceeding under Title 11 of the United States Code, entitled "Bankruptcy", any individual debtor domiciled in this State may exempt the debtor's aggregate interest[, not to exceed \$5,000 in value, in real property or personal property] **IN:**

**(I) PERSONAL PROPERTY, UP TO \$5,000; AND**

~~**(II) REAL PROPERTY, UP TO \$5,000; AND**~~

~~**(III) (II) SINGLE FAMILY, \_\_\_\_\_ OWNER OCCUPIED**~~  
**OWNER-OCCUPIED RESIDENTIAL REAL PROPERTY, UP TO \$80,000 ~~\$20,200~~ THE**  
**AMOUNT UNDER 11 U.S.C. § 522(D)(1), ADJUSTED IN ACCORDANCE WITH 11**  
**U.S.C. § 104, SUBJECT TO THE PROVISIONS OF PARAGRAPHS (2) AND (3) OF**  
**THIS SUBSECTION.**

**(2) AN INDIVIDUAL MAY NOT CLAIM THE EXEMPTION UNDER**  
**PARAGRAPH ~~(1)(III)~~ (1)(II) OF THIS SUBSECTION ON A PARTICULAR PROPERTY**  
**IF:**

**(I) THE INDIVIDUAL HAS CLAIMED SUCCESSFULLY THE**  
**EXEMPTION ON THE PROPERTY WITHIN ~~THE PRIOR~~ 8 YEARS PRIOR TO THE**  
**FILING OF THE BANKRUPTCY PROCEEDING IN WHICH THE EXEMPTION UNDER**  
**THIS SUBSECTION IS CLAIMED; OR**

~~(II) A MEMBER OF THE INDIVIDUAL'S IMMEDIATE FAMILY, AS DEFINED IN § 8-101(G) OF THE FINANCIAL INSTITUTIONS ARTICLE, THE INDIVIDUAL'S SPOUSE, CHILD, CHILD'S SPOUSE, PARENT, SIBLING, GRANDPARENT, OR GRANDCHILD HAS CLAIMED SUCCESSFULLY THE EXEMPTION ON THE PROPERTY WITHIN THE PRIOR 8 YEARS PRIOR TO THE FILING OF THE BANKRUPTCY PROCEEDING IN WHICH THE EXEMPTION UNDER THIS SUBSECTION IS CLAIMED.~~

(3) THE EXEMPTION UNDER PARAGRAPH ~~(1)(III)~~ (1)(II) OF THIS SUBSECTION:

~~(I) APPLIES ONLY TO UNSECURED DEBT OF AN INDIVIDUAL; AND~~

~~(II) MAY NOT~~ MAY NOT BE CLAIMED BY BOTH A HUSBAND AND WIFE IN THE SAME BANKRUPTCY PROCEEDING.

(g) In any bankruptcy proceeding, a debtor is not entitled to the federal exemptions provided by § 522(d) of the federal Bankruptcy Code.

(h) (1) In addition to the exemptions provided in subsections (b) and (f) of this section and any other provisions of law, any money or other assets payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan qualified under § 401(a), § 403(a), § 403(b), § 408, § 408A, § 414(d), or § 414(e) of the United States Internal Revenue Code of 1986, as amended, or § 409 (as in effect prior to January 1984) of the United States Internal Revenue Code of 1954, as amended, shall be exempt from any and all claims of the creditors of the beneficiary or participant, other than claims by the Department of Health and Mental Hygiene.

(2) Paragraph (1) of this subsection does not apply to:

(i) An alternate payee under a qualified domestic relations order, as defined in § 414(p) of the United States Internal Revenue Code of 1986, as amended;

(ii) A retirement plan, qualified under § 401(a) of the United States Internal Revenue Code of 1986, as amended, as a creditor of an individual retirement account qualified under § 408 of the United States Internal Revenue Code of 1986, as amended; or

(iii) The assets of a bankruptcy case filed before January 1, 1988.

(3) The interest of an alternate payee in a plan described in subsection (h)(1) of this section shall be exempt from any and all claims of any creditor of the alternate payee, except claims by the Department of Health and Mental Hygiene.

(4) If a contribution to a retirement plan described under paragraph (1) of this subsection exceeds the amount deductible or, in the case of contribution under § 408A of the Internal Revenue Code, the maximum contribution allowed under the applicable provisions of the United States Internal Revenue Code of 1986, as amended, the portion of that contribution that exceeds the amount deductible or, in the case of contribution under § 408A of the Internal Revenue Code, the maximum contribution allowed, and any accrued earnings on such a portion, are not exempt under paragraph (1) of this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any case filed before the effective date of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 350

(House Bill 456)

AN ACT concerning

~~Mortgage Foreclosure Bankruptcy Exemption~~  
Homestead Exemption – Bankruptcy

FOR the purpose of authorizing an individual to claim a certain exemption in a certain bankruptcy proceeding; providing that the exemption may be for a certain amount in an individual's interest in owner-occupied, residential real property; prohibiting an individual from claiming the exemption under certain conditions; ~~limiting the exemption to apply to claims by unsecured creditors;~~ prohibiting both a husband and wife from claiming the exemption in the same proceeding; ~~making conforming changes;~~ making a clarifying change; providing for the application of this Act; and generally relating to debtor exemptions in bankruptcy proceedings.

BY repealing and reenacting, with amendments,  
 Article – Courts and Judicial Proceedings  
 Section 11-504  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2009 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**

11–504.

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

(2) “Value” means fair market value as of the date upon which the execution or other judicial process becomes effective against the property of the debtor, or the date of filing the petition under the federal Bankruptcy Code.

(b) The following items are exempt from execution on a judgment:

(1) Wearing apparel, books, tools, instruments, or appliances, in an amount not to exceed \$5,000 in value necessary for the practice of any trade or profession except those kept for sale, lease, or barter.

(2) Money payable in the event of sickness, accident, injury, or death of any person, including compensation for loss of future earnings. This exemption includes but is not limited to money payable on account of judgments, arbitrations, compromises, insurance, benefits, compensation, and relief. Disability income benefits are not exempt if the judgment is for necessities contracted for after the disability is incurred.

(3) Professionally prescribed health aids for the debtor or any dependent of the debtor.

(4) The debtor’s interest, not to exceed \$1,000 in value, in household furnishings, household goods, wearing apparel, appliances, books, animals kept as pets, and other items that are held primarily for the personal, family, or household use of the debtor or any dependent of the debtor.

(5) Cash or property of any kind equivalent in value to \$6,000 is exempt, if within 30 days from the date of the attachment or the levy by the sheriff, the debtor elects to exempt cash or selected items of property in an amount not to exceed a cumulative value of \$6,000.

(6) Money payable or paid in accordance with an agreement or court order for child support.

(7) Money payable or paid in accordance with an agreement or court order for alimony to the same extent that wages are exempt from attachment under § 15–601.1(b)(1)(ii) or (2)(i) of the Commercial Law Article.

(c) (1) In order to determine whether the property listed in subsection (b)(4) and (5) of this section is subject to execution, the sheriff shall appraise the property at the time of levy. The sheriff shall return the appraisal with the writ.

(2) An appraisal made by the sheriff under this subsection is subject to review by the court on motion of the debtor.

(3) Procedures will be as prescribed by rules issued by the Court of Appeals.

(d) The debtor may not waive, by cognovit note or otherwise, the provisions of subsections (b) and (h) of this section.

(e) The exemptions in this section do not apply to wage attachments.

(f) **(1)** In addition to the exemptions provided in subsection (b) of this section, and in other statutes of this State, in any proceeding under Title 11 of the United States Code, entitled "Bankruptcy", any individual debtor domiciled in this State may exempt the debtor's aggregate interest[, not to exceed \$5,000 in value, in real property or personal property] **IN:**

**(I) PERSONAL PROPERTY, UP TO \$5,000; AND**

~~**(II) REAL PROPERTY, UP TO \$5,000; AND**~~

~~**(III) SINGLE FAMILY, OWNER OCCUPIED**~~

**(II) OWNER-OCCUPIED RESIDENTIAL REAL PROPERTY, UP TO \$80,000 \$20,200 THE AMOUNT UNDER 11 U.S.C. § 522(D)(1), ADJUSTED IN ACCORDANCE WITH 11 U.S.C. § 104, SUBJECT TO THE PROVISIONS OF PARAGRAPHS (2) AND (3) OF THIS SUBSECTION.**

**(2) AN INDIVIDUAL MAY NOT CLAIM THE EXEMPTION UNDER PARAGRAPH ~~(I)(III)~~ (1)(II) OF THIS SUBSECTION ON A PARTICULAR PROPERTY IF:**

**(I) THE INDIVIDUAL HAS CLAIMED SUCCESSFULLY THE EXEMPTION ON THE PROPERTY WITHIN ~~THE PRIOR~~ 8 YEARS PRIOR TO THE FILING OF THE BANKRUPTCY PROCEEDING IN WHICH THE EXEMPTION UNDER THIS SUBSECTION IS CLAIMED; OR**

**(II) ~~A MEMBER OF THE INDIVIDUAL'S IMMEDIATE FAMILY, AS DEFINED IN § 8 101(C) OF THE FINANCIAL INSTITUTIONS ARTICLE, THE INDIVIDUAL'S SPOUSE, CHILD, CHILD'S SPOUSE, PARENT, SIBLING, GRANDPARENT, OR GRANDCHILD~~ HAS CLAIMED SUCCESSFULLY THE EXEMPTION ON THE PROPERTY WITHIN ~~THE PRIOR~~ 8 YEARS PRIOR TO THE FILING OF THE BANKRUPTCY PROCEEDING IN WHICH THE EXEMPTION UNDER THIS SUBSECTION IS CLAIMED.**

**(3) THE EXEMPTION UNDER PARAGRAPH ~~(1)(H)~~ (1)(II) OF THIS SUBSECTION:**

~~(I) APPLIES ONLY TO UNSECURED DEBT OF AN INDIVIDUAL; AND~~

~~(H) MAY MAY NOT BE CLAIMED BY BOTH A HUSBAND AND WIFE IN THE SAME BANKRUPTCY PROCEEDING.~~

(g) In any bankruptcy proceeding, a debtor is not entitled to the federal exemptions provided by § 522(d) of the federal Bankruptcy Code.

(h) (1) In addition to the exemptions provided in subsections (b) and (f) of this section and any other provisions of law, any money or other assets payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan qualified under § 401(a), § 403(a), § 403(b), § 408, § 408A, § 414(d), or § 414(e) of the United States Internal Revenue Code of 1986, as amended, or § 409 (as in effect prior to January 1984) of the United States Internal Revenue Code of 1954, as amended, shall be exempt from any and all claims of the creditors of the beneficiary or participant, other than claims by the Department of Health and Mental Hygiene.

(2) Paragraph (1) of this subsection does not apply to:

(i) An alternate payee under a qualified domestic relations order, as defined in § 414(p) of the United States Internal Revenue Code of 1986, as amended;

(ii) A retirement plan, qualified under § 401(a) of the United States Internal Revenue Code of 1986, as amended, as a creditor of an individual retirement account qualified under § 408 of the United States Internal Revenue Code of 1986, as amended; or

(iii) The assets of a bankruptcy case filed before January 1, 1988.

(3) The interest of an alternate payee in a plan described in subsection (h)(1) of this section shall be exempt from any and all claims of any creditor of the alternate payee, except claims by the Department of Health and Mental Hygiene.

(4) If a contribution to a retirement plan described under paragraph (1) of this subsection exceeds the amount deductible or, in the case of contribution under § 408A of the Internal Revenue Code, the maximum contribution allowed under the applicable provisions of the United States Internal Revenue Code of 1986, as amended, the portion of that contribution that exceeds the amount deductible or, in the case of contribution under § 408A of the Internal Revenue Code, the maximum

contribution allowed, and any accrued earnings on such a portion, are not exempt under paragraph (1) of this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any case filed before the effective date of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 351**

### **(Senate Bill 815)**

AN ACT concerning

#### **Identity Fraud – Uniform Reporting Form**

FOR the purpose of requiring the Police Training Commission, in cooperation with the Office of the Attorney General, the Governor's Office of Crime Control and Prevention, and the Federal Trade Commission, to develop a uniform reporting form that makes certain transmitted data available for use by State and local law enforcement agencies by a certain date and that may authorize that certain data may be transmitted to a certain program within the Federal Trade Commission; and generally relating to the reporting of identity fraud.

BY repealing and reenacting, with amendments,  
Article – Public Safety  
Section 3–207  
Annotated Code of Maryland  
(2003 Volume and 2009 Supplement)

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

#### **Article – Public Safety**

3–207.

Subject to the authority of the Secretary, the Commission has the following powers and duties:

(1) to establish standards for the approval and continuation of approval of schools that conduct police entrance–level and in–service training courses required by the Commission, including State, regional, county, and municipal training schools;

(2) to approve and issue certificates of approval to police training schools;

(3) to inspect police training schools;

(4) to revoke, for cause, the approval or certificate of approval issued to a police training school;

(5) to establish the following for police training schools:

(i) curriculum;

(ii) minimum courses of study;

(iii) attendance requirements;

(iv) eligibility requirements;

(v) equipment and facilities;

(vi) standards of operation; and

(vii) minimum qualifications for instructors;

(6) to require, for entrance–level police training and at least every 3 years for in–service level police training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include special training, attention to, and study of the application and enforcement of the criminal laws concerning rape and sexual offenses, including:

(i) the sexual abuse of children;

(ii) related evidentiary procedures; and

(iii) the contact with and treatment of victims of these crimes;

(7) to certify and issue appropriate certificates to qualified instructors for police training schools authorized by the Commission to offer police training programs;

(8) to verify that police officers have satisfactorily completed training programs and issue diplomas to those police officers;

(9) to conduct and operate police training schools authorized by the Commission to offer police training programs;

(10) to make a continuous study of entrance-level and in-service training methods and procedures;

(11) to consult with and accept the cooperation of any recognized federal, State, or municipal law enforcement agency or educational institution;

(12) to consult and cooperate with universities, colleges, and institutions in the State to develop specialized courses of study for police officers in police science and police administration;

(13) to consult and cooperate with other agencies and units of the State concerned with police training;

(14) to develop, with the cooperation of the Office of the Chief Medical Examiner and the Federal Bureau of Investigation, a uniform missing person report form to be available for use by each law enforcement agency of the State on or before October 1, 2008;

(15) to require, for entrance-level police training and annually for in-service level police training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include, for police officers who are issued an electronic control device by a law enforcement agency, special training in the proper use of electronic control devices, as defined in § 4-109 of the Criminal Law Article, consistent with established law enforcement standards and federal and State constitutional provisions; [and]

**(16) TO DEVELOP, WITH THE COOPERATION OF THE OFFICE OF THE ATTORNEY GENERAL, THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION, AND THE FEDERAL TRADE COMMISSION, A UNIFORM IDENTITY FRAUD REPORTING FORM THAT:**

**(I) MAKES TRANSMITTED DATA AVAILABLE ON OR BEFORE OCTOBER 1, 2011, FOR USE BY EACH LAW ENFORCEMENT AGENCY OF STATE AND LOCAL GOVERNMENT; AND**

**(II) MAY AUTHORIZE THE DATA TO BE TRANSMITTED TO THE CONSUMER SENTINEL PROGRAM IN THE FEDERAL TRADE COMMISSION; AND**

[(16)] **(17)** to perform any other act that is necessary or appropriate to carry out the powers and duties of the Commission under this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 352**

### **(House Bill 785)**

AN ACT concerning

#### **Identity Fraud – Uniform Reporting Form**

FOR the purpose of requiring the Police Training Commission, in cooperation with the Office of the Attorney General, the Governor's Office of Crime Control and Prevention, and the Federal Trade Commission, to develop a uniform reporting form that makes certain transmitted data available for use by State and local law enforcement agencies by a certain date and that may authorize that certain data may be transmitted to a certain program within the Federal Trade Commission; and generally relating to the reporting of identity fraud.

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 3–207

Annotated Code of Maryland

(2003 Volume and 2009 Supplement)

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

#### **Article – Public Safety**

3–207.

Subject to the authority of the Secretary, the Commission has the following powers and duties:

(1) to establish standards for the approval and continuation of approval of schools that conduct police entrance–level and in–service training courses required by the Commission, including State, regional, county, and municipal training schools;

(2) to approve and issue certificates of approval to police training schools;

- (3) to inspect police training schools;
- (4) to revoke, for cause, the approval or certificate of approval issued to a police training school;
- (5) to establish the following for police training schools:
  - (i) curriculum;
  - (ii) minimum courses of study;
  - (iii) attendance requirements;
  - (iv) eligibility requirements;
  - (v) equipment and facilities;
  - (vi) standards of operation; and
  - (vii) minimum qualifications for instructors;
- (6) to require, for entrance-level police training and at least every 3 years for in-service level police training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include special training, attention to, and study of the application and enforcement of the criminal laws concerning rape and sexual offenses, including:
  - (i) the sexual abuse of children;
  - (ii) related evidentiary procedures; and
  - (iii) the contact with and treatment of victims of these crimes;
- (7) to certify and issue appropriate certificates to qualified instructors for police training schools authorized by the Commission to offer police training programs;
- (8) to verify that police officers have satisfactorily completed training programs and issue diplomas to those police officers;
- (9) to conduct and operate police training schools authorized by the Commission to offer police training programs;
- (10) to make a continuous study of entrance-level and in-service training methods and procedures;

(11) to consult with and accept the cooperation of any recognized federal, State, or municipal law enforcement agency or educational institution;

(12) to consult and cooperate with universities, colleges, and institutions in the State to develop specialized courses of study for police officers in police science and police administration;

(13) to consult and cooperate with other agencies and units of the State concerned with police training;

(14) to develop, with the cooperation of the Office of the Chief Medical Examiner and the Federal Bureau of Investigation, a uniform missing person report form to be available for use by each law enforcement agency of the State on or before October 1, 2008;

(15) to require, for entrance-level police training and annually for in-service level police training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include, for police officers who are issued an electronic control device by a law enforcement agency, special training in the proper use of electronic control devices, as defined in § 4-109 of the Criminal Law Article, consistent with established law enforcement standards and federal and State constitutional provisions; [and]

**(16) TO DEVELOP, WITH THE COOPERATION OF THE OFFICE OF THE ATTORNEY GENERAL, THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION, AND THE FEDERAL TRADE COMMISSION, A UNIFORM IDENTITY FRAUD REPORTING FORM THAT:**

**(I) MAKES TRANSMITTED DATA AVAILABLE ON OR BEFORE OCTOBER 1, 2011, FOR USE BY EACH LAW ENFORCEMENT AGENCY OF STATE AND LOCAL GOVERNMENT; AND**

**(II) MAY AUTHORIZE THE DATA TO BE TRANSMITTED TO THE CONSUMER SENTINEL PROGRAM IN THE FEDERAL TRADE COMMISSION; AND**

[(16)] **(17)** to perform any other act that is necessary or appropriate to carry out the powers and duties of the Commission under this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 353

### (Senate Bill 834)

AN ACT concerning

#### **Base Realignment and Closure – Public Charter Schools Located on a Federal Military Base**

FOR the purpose of exempting certain public charter schools from certain admission requirements; ~~authorizing public charter schools subject to this Act to be open to certain students on a certain basis and to certain other students under certain circumstances~~ authorizing the State Board of Education to grant a certain waiver under certain circumstances; requiring certain public charter schools to admit certain students on a certain basis, subject to a certain requirement; and generally relating to public charter schools located on a federal military base.

BY repealing and reenacting, with amendments,  
 Article – Education  
 Section 9–102  
 Annotated Code of Maryland  
 (2008 Replacement Volume and 2009 Supplement)

BY adding to  
 Article – Education  
 Section 9–102.1  
 Annotated Code of Maryland  
 (2008 Replacement Volume and 2009 Supplement)

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

#### **Article – Education**

9–102.

In this title, “public charter school” means a public school that:

- (1) Is nonsectarian in all its programs, policies, and operations;
- (2) Is a school to which parents choose to send their children;
- (3) **[Is] EXCEPT AS PROVIDED IN § 9–102.1 OF THIS TITLE, IS** open to all students on a space-available basis and admits students on a lottery basis if more students apply than can be accommodated;

- (4) Is a new public school or a conversion of an existing public school;
- (5) Provides a program of elementary or secondary education or both;
- (6) Operates in pursuit of a specific set of educational objectives;
- (7) Is tuition-free;
- (8) Is subject to federal and State laws prohibiting discrimination;
- (9) Is in compliance with all applicable health and safety laws;
- (10) Is in compliance with § 9-107 of this title;
- (11) Operates under the supervision of the public chartering authority from which its charter is granted and in accordance with its charter and, except as provided in § 9-106 of this title, the provisions of law and regulation governing other public schools;
- (12) Requires students to be physically present on school premises for a period of time substantially similar to that which other public school students spend on school premises; and
- (13) Is created in accordance with this title and the appropriate county board policy.

**9-102.1.**

~~A PUBLIC CHARTER SCHOOL THAT IS LOCATED ON PROPERTY WITHIN A FEDERAL MILITARY BASE IN THE STATE SHALL BE OPEN TO STUDENTS WITH PARENTS ASSIGNED TO THE BASE ON A LOTTERY BASIS AND, IF REMAINING SPACE IS AVAILABLE, TO ALL OTHER STUDENTS ON A LOTTERY BASIS.~~

**(A) THE STATE BOARD MAY GRANT A WAIVER FROM § 9-102(3) OF THIS TITLE TO A PUBLIC CHARTER SCHOOL IF THE PUBLIC CHARTER SCHOOL:**

**(1) IS LOCATED ON PROPERTY WITHIN A FEDERAL MILITARY BASE IN THE STATE; AND**

**(2) WILL ADMIT STUDENTS WITH PARENTS WHO ARE NOT ASSIGNED TO THE BASE TO AT LEAST ~~30%~~ 35% OF ITS TOTAL AVAILABLE SPACE.**

**(B) IF A PUBLIC CHARTER SCHOOL IS GRANTED A WAIVER UNDER SUBSECTION (A) OF THIS SECTION, SUBJECT TO THE REQUIREMENT SET FORTH IN SUBSECTION (A)(2) OF THIS SECTION, THE PUBLIC CHARTER SCHOOL SHALL ADMIT ALL STUDENTS ON A LOTTERY BASIS.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 354

(Senate Bill 847)

AN ACT concerning

### **Hunting Licenses – Exemption for Disabled Armed Forces Members**

FOR the purpose of creating an exemption from the requirement to obtain a hunting license under certain circumstances ~~under certain circumstances~~ for a person who serves in the armed forces and has a service-connected disability; providing that the exemption applies only to hunting on private property; ~~providing that the exemption applies only to hunting on private property;~~ requiring a person who hunts under the exemption to possess certain identification; and generally relating to exemptions from the requirement to obtain a hunting license.

BY repealing and reenacting, without amendments,  
Article – Natural Resources  
Section 10–301(b)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
Article – Natural Resources  
Section 10–301(c)(1)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 Supplement)

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

### **Article – Natural Resources**

10–301.

(b) To provide a fund to pay the expense of protecting and managing wildlife, and preventing unauthorized persons from hunting them, a person may not hunt or attempt to hunt during open season and in any permitted manner any game birds and

mammals in the State without first having procured either a resident or nonresident hunter's license. A person may not hunt or attempt to hunt nongame birds and mammals in Baltimore County or Frederick County without first obtaining a license. A permanent resident of a government reservation may obtain a resident hunter's license.

(c) (1) Except as provided in paragraph (2) of this subsection, the following persons are not required to obtain a hunter's license, bow and arrow stamp, black powder stamp, or bonus antlered deer stamp:

(i) With respect to hunting on farmland only:

1. The resident owner of the farmland and the owner's spouse, child, and child's spouse;

2. A tenant and the tenant's spouse, child, and child's spouse. A tenant is a person holding land under a lease, or a sharecropper who resides in a dwelling on the land, but a tenant does not include any employee of the owner or tenant; and

3. A nonresident owner of a parcel of farmland and the owner's spouse, child, and child's spouse if:

A. The parcel of farmland is located in Maryland and an adjacent state;

B. The owner's primary residence is on the parcel of farmland; and

C. The adjacent state extends similar privileges to a resident of Maryland;

(ii) Any resident serving in the armed forces of the United States while on leave in the State, during the resident's leave period, if, while hunting, the resident possesses a copy of the resident's official leave order; [and]

(iii) ~~WITH RESPECT TO HUNTING ON PRIVATE PROPERTY,~~  
~~ANY ANY~~ WITH RESPECT TO HUNTING ON PRIVATE PROPERTY, ANY PERSON  
SERVING IN THE ARMED FORCES OF THE UNITED STATES WHO HAS A  
SERVICE-CONNECTED DISABILITY, IF, WHILE HUNTING, THE PERSON  
POSSESSES VALID MILITARY IDENTIFICATION; AND

(IV) Any unarmed person participating in an organized foxhunt.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 355

(Senate Bill 858)

AN ACT concerning

### Maryland Winery Modernization Act

FOR the purpose of authorizing the Comptroller to issue a farmer's market permit to certain alcoholic beverages licensees; specifying that a permit may be used only at a certain time and place and for certain purposes; requiring the licensee to notify the local licensing board of the issuance of a farmer's market permit; requiring the Comptroller to submit a certain report to the General Assembly on or before a certain date on the viability and efficacy of instituting in Maryland the policy of permitting direct shipment of wine to consumers in the State; limiting the number of permits that the Comptroller may issue; altering the scope of the Class 4 limited winery license; authorizing a licensee to exercise certain privileges under certain conditions, including fermenting and bottling wine, distilling and bottling pomace brandy, providing samples of wine and pomace brandy, and selling or serving certain foods; specifying certain license restrictions in Garrett County; requiring a licensee to file a certain notice with the Comptroller under certain conditions; altering the amount of pomace brandy a licensee is authorized to distill and bottle; authorizing a licensee to purchase a certain amount of bulk wine for a certain purpose; authorizing a licensee to conduct winemaking and packaging activities at certain locations under certain circumstances; requiring that throughout the winemaking process, the licensee maintain ownership of the wine or pomace brandy and ensure that the wine or pomace brandy returns to the location of the limited winery; repealing certain provisions that are inconsistent with this Act; providing that this Act applies to certain licensees; providing for the construction of a portion of this Act; requiring the Comptroller to make a certain report on or before a certain date on the growth of the Maryland wine industry; and generally relating to alcoholic beverages in the State.

BY adding to

Article 2B – Alcoholic Beverages

Section 2–101(x)

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 2–201, 2–205, 11–507, and 11–511  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

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

**Article 2B – Alcoholic Beverages**

2–101.

(X) (1) IN THIS SUBSECTION, “PERMIT” MEANS A FARMER’S MARKET PERMIT.

(2) THERE IS A FARMER’S MARKET PERMIT.

(3) THE COMPTROLLER MAY ISSUE THE PERMIT TO A HOLDER OF A LICENSE:

(i) OTHER THAN A CLASS 4 LIMITED WINERY LICENSE, THAT ALLOWS THE HOLDER TO SELL ALCOHOLIC BEVERAGES TO THE PUBLIC FOR CONSUMPTION OFF THE LICENSED PREMISES; AND

(ii) THAT WAS ISSUED BY THE LOCAL LICENSING BOARD OF THE JURISDICTION IN WHICH THE FARMER’S MARKET WILL BE HELD.

(4) THE HOLDER OF A PERMIT SHALL NOTIFY THE LOCAL LICENSING BOARD OF THE JURISDICTION IN WHICH THE FARMER’S MARKET WILL BE HELD THAT THE PERMIT HAS BEEN ISSUED.

~~(4)~~ (5) (i) A PERMIT MAY BE USED ONLY:

1. AT A FARMER’S MARKET THAT IS LISTED IN THE FARMER’S MARKET DIRECTORY OF THE MARYLAND DEPARTMENT OF AGRICULTURE;

2. AT THE FARMER’S MARKET NAMED IN THE PERMIT; AND

~~2.~~ 3. DURING THE HOURS OF OPERATION OF THE FARMER’S MARKET FOR WHICH IT IS OBTAINED.

(ii) THE COMPTROLLER MAY ISSUE NOT MORE THAN ONE PERMIT FOR USE AT EACH FARMER’S MARKET.

~~(5)~~ **(6)** A PERMIT AUTHORIZES THE HOLDER TO:**(I)** OCCUPY STALL SPACE AT A FARMER'S MARKET; AND**(II)** SUBJECT TO PARAGRAPH ~~(6)~~ **(7)** OF THIS SUBSECTION:

**1.** OFFER AND SELL SEALED CONTAINERS OF WINE TO CONSUMERS FOR CONSUMPTION OFF THE LICENSED PREMISES OF THE FARMER'S MARKET; AND

**2.** PROVIDE AT NO CHARGE SAMPLES OF WINE NOT TO EXCEED 1 FLUID OUNCE PER BRAND TO CONSUMERS FOR CONSUMPTION ON THE LICENSED PREMISES OF THE FARMER'S MARKET.

~~(6)~~ **(7)** ALL WINE OFFERED FOR SALE OR SAMPLINGS BY THE PERMIT HOLDER SHALL BE THE PRODUCT OF A CLASS 4 LIMITED WINERY.

2-201.

(a) The annual fees for manufacturer's licenses are as follows:

Class 1	Distillery	\$ 2,000
Class 2	Rectifying	600
Class 3	Winery	750
Class 4	Limited Winery	200
Class 5	Brewery	1,500
Class 6	Pub-Brewery	500
Class 7	Micro-Brewery	500

(b) (1) Except for a Class 6 pub-brewery license, the holder of a distillery, rectifying, winery, **LIMITED WINERY**, or brewery license may apply for and obtain, under a different name, one or more additional distillery, rectifying, winery, **LIMITED WINERY**, or brewery licenses for the same or another premises. Those licenses may be issued to different persons or under trade names used by persons occupying a part of or all of the same premises.

(2) (i) The holder of a rectifying, winery, or brewery license may apply for and obtain a wholesaler's license of any class for the same premises or elsewhere as provided under this article.

(ii) The holder of a limited winery license may apply for and obtain a Class 6 limited wine wholesaler's license for the same premises or elsewhere as provided under this article.

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) 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.

(c) In Frederick County the provisions regarding sales on Sundays of this section are governed by § 11–511 of this article.

(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.]

**(B) (1) THERE IS A CLASS 4 LIMITED WINERY LICENSE.**

**(2) A CLASS 4 LIMITED WINERY LICENSE ALLOWS THE LICENSEE TO:**

**(I) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, FROM AVAILABLE MARYLAND AGRICULTURAL PRODUCTS:**

**1. FERMENT AND BOTTLE WINE; AND**

**2. DISTILL AND BOTTLE POMACE BRANDY; AND**

**(II) SELL AND DELIVER THE WINE AND POMACE BRANDY TO A WHOLESALE LICENSEE OR PERMIT HOLDER IN THIS STATE OR A PERSON OUTSIDE OF THIS STATE THAT IS AUTHORIZED TO ACQUIRE THE WINE AND POMACE BRANDY.**

**(3) (I) ON OR BEFORE JANUARY 31 OF EACH YEAR, THE MARYLAND DEPARTMENT OF AGRICULTURE SHALL DETERMINE IF AN INSUFFICIENT SUPPLY OF MARYLAND AGRICULTURAL PRODUCTS EXISTS.**

**(II) IF AN INSUFFICIENT SUPPLY IS DETERMINED TO EXIST, A LICENSEE MAY USE AGRICULTURAL PRODUCTS FROM OUTSIDE THE STATE TO MANUFACTURE WINE AND POMACE BRANDY.**

**(4) EXCEPT AS PROVIDED IN § 2-301 OF THIS TITLE, A LICENSEE NEED NOT OBTAIN ANY OTHER LICENSE TO POSSESS, MANUFACTURE, SELL, OR TRANSPORT WINE OR POMACE BRANDY.**

**(5) A LICENSEE MAY:**

**(I) SELL WINE AND POMACE BRANDY PRODUCED BY THE LICENSEE FOR CONSUMPTION;**

**(II) IN AN AMOUNT NOT EXCEEDING 2 FLUID OUNCES PER BRAND, PROVIDE SAMPLES OF WINE AND POMACE BRANDY THAT THE LICENSEE PRODUCES TO A CONSUMER:**

1. AT NO CHARGE; OR
2. FOR A FEE; AND

(III) SUBJECT TO PARAGRAPH (6) OF THIS SUBSECTION,  
SELL OR SERVE ONLY:

1. BREAD AND OTHER BAKED GOODS;
2. CHILI;
3. CHOCOLATE;
4. CRACKERS;
5. CURED MEAT;
6. FRUITS (WHOLE AND CUT);
7. SALADS AND VEGETABLES (WHOLE AND CUT);
8. ~~HARD~~ HARD AND SOFT CHEESE (WHOLE AND  
CUT);
9. THE FOLLOWING ITEMS MADE WITH MARYLAND  
WINE:
  - A. ICE CREAM;
  - B. JELLY;
  - C. JAM; AND
  - D. VINEGAR;
10. PIZZA;
11. PREPACKAGED SANDWICHES AND OTHER  
PREPACKAGED FOODS READY TO BE EATEN; ~~AND~~
12. SOUP; AND
13. CONDIMENTS.

(6) (I) A CATERER ~~LICENSED UNDER THIS ARTICLE~~ IS NOT LIMITED TO SELLING OR SERVING ONLY THE FOODS SPECIFIED IN PARAGRAPH (5)(III) OF THIS SUBSECTION.

(II) A LICENSEE OR ENTITY IN WHICH THE LICENSEE HAS A PECUNIARY INTEREST MAY NOT ACT AS A CATERER OF FOOD.

(7) ~~EXCEPT AS PROVIDED IN~~ SUBJECT TO PARAGRAPH (8) OF THIS SUBSECTION, A LICENSEE MAY CONDUCT THE ACTIVITIES SPECIFIED IN PARAGRAPH (5) OF THIS SUBSECTION:

(I) FOR CONSUMPTION OF WINE AND POMACE BRANDY OFF THE LICENSED PREMISES AND FOR SAMPLING, EACH DAY FROM 10 A.M. TO 10 P.M.; AND

(II) FOR CONSUMPTION OF WINE AND POMACE BRANDY ON THE LICENSED PREMISES AND SALES AND SERVICE OF FOOD ON THE LICENSED PREMISES:

1. FROM 10 A.M. TO 6 P.M. EACH DAY; OR

2. IF GUESTS ARE ATTENDING A PLANNED PROMOTIONAL EVENT OR OTHER ORGANIZED ACTIVITY ON THE LICENSED PREMISES, FROM 10 A.M. TO 10 P.M. EACH DAY.

~~(8) (I) THIS PARAGRAPH APPLIES ONLY IN GARRETT COUNTY ON SUNDAY.~~

~~(II) FROM 1 P.M. TO 10 P.M. A LICENSEE MAY:~~

~~1. SERVE WINE AND POMACE BRANDY FOR CONSUMPTION OFF THE LICENSED PREMISES;~~

~~2. PROVIDE SAMPLES OF WINE AND POMACE BRANDY;~~

~~3. SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, SERVE WINE AND POMACE BRANDY FOR CONSUMPTION ON THE LICENSED PREMISES; AND~~

~~4. SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, SELL AND SERVE FOOD THAT IS SPECIFIED IN PARAGRAPH (5)(III) OF THIS SUBSECTION FOR CONSUMPTION ON THE LICENSED PREMISES.~~

~~(III) FROM 6 P.M. TO 10 P.M., A LICENSEE MAY SERVE WINE AND POMACE BRANDY AND SELL AND SERVE FOOD FOR CONSUMPTION ON THE LICENSED PREMISES ONLY TO GUESTS WHO ATTEND A PLANNED PROMOTIONAL EVENT OR OTHER ORGANIZED ACTIVITY ON THE LICENSED PREMISES.~~

~~(9)~~ (8) (I) A EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A CLASS 4 LIMITED WINERY LICENSE PERMITS ALLOWS THE HOLDER TO OPERATE 7 DAYS A WEEK.

(II) IN GARRETT COUNTY, A LICENSEE MAY OPEN ON SUNDAYS TO ENGAGE IN THE ACTIVITIES LISTED IN PARAGRAPH (5) OF THIS SUBSECTION ONLY IN AN ELECTION DISTRICT WHERE THE VOTERS, IN A REFERENDUM AUTHORIZED BY LAW, HAVE APPROVED SUNDAY SALES AT A WINERY.

~~(10)~~ (9) AT LEAST 14 DAYS BEFORE HOLDING A PLANNED PROMOTIONAL EVENT AFTER 6 P.M., A LICENSEE SHALL FILE A NOTICE OF THE PROMOTIONAL EVENT WITH THE COMPTROLLER ON THE FORM THAT THE COMPTROLLER PROVIDES.

~~(11)~~ (10) A LICENSEE MAY NOT SELL OR ALLOW TO BE CONSUMED AT THE LOCATION OF THE LIMITED WINERY ANY ALCOHOLIC BEVERAGE OTHER THAN THE WINE OR POMACE BRANDY PRODUCED BY THE LICENSEE UNDER THE AUTHORITY OF THIS SECTION.

(11) NOTHING IN THIS SUBSECTION LIMITS THE APPLICATION OF RELEVANT PROVISIONS OF TITLE 21 OF THE HEALTH – GENERAL ARTICLE, AND REGULATIONS ADOPTED UNDER THAT TITLE, TO A LICENSEE.

(C) THE PLACE LISTED ON THE CLASS 4 WINERY LICENSE SHALL BE IN COMPLIANCE WITH § 9-103 OF THIS ARTICLE.

(D) A LICENSEE MAY:

(1) 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 WINERIES ASSOCIATION PROMOTIONAL ACTIVITIES, PROVIDED RECORDS ARE MAINTAINED AND REPORTS FILED AS MAY BE REQUIRED BY THE COMPTROLLER;

(2) DISTILL AND BOTTLE NOT MORE THAN 1,900 GALLONS OF POMACE BRANDY MADE FROM AVAILABLE MARYLAND AGRICULTURAL PRODUCTS;

(3) PURCHASE BULK WINE FERMENTED BY A MANUFACTURER LICENSED UNDER THIS ARTICLE AND BLEND THE WINE WITH THE HOLDER'S WINE AND POMACE BRANDY, IF THE AGGREGATE PURCHASE DOES NOT EXCEED 25% OF THE HOLDER'S ANNUAL WINE AND POMACE BRANDY PRODUCTION;

(4) PURCHASE POMACE BRANDY ONLY FOR BLENDING WITH WINE;

(5) IMPORT, EXPORT, AND TRANSPORT ITS WINE AND POMACE BRANDY IN ACCORDANCE WITH THIS SECTION; AND

(6) PRODUCE WINE AND POMACE BRANDY AT A WAREHOUSE FOR WHICH THE HOLDER HAS BEEN ISSUED AN INDIVIDUAL STORAGE PERMIT, IF:

(I) THE HOLDER DOES NOT SERVE OR SELL WINE OR POMACE BRANDY AT A WAREHOUSE TO THE PUBLIC; AND

(II) THE COMPTROLLER HAS FULL ACCESS AT ALL TIMES TO THE WAREHOUSE TO ENFORCE THIS ARTICLE.

(E) A CLASS 4 LIMITED WINERY MAY BE LOCATED ONLY AT THE PLACE STATED ON THE LICENSE.

(F) IF A LICENSEE MAINTAINS THE RECORDS AND FILES THE REPORTS THAT THE COMPTROLLER REQUIRES, THE LICENSEE MAY:

(1) IN THE STATE, CONDUCT WINEMAKING AND PACKAGING ACTIVITIES AT ANOTHER FEDERALLY BONDED WINERY OR LIMITED WINERY; OR

(2) OUTSIDE THE STATE, CONDUCT WINEMAKING AND PACKAGING ACTIVITIES OTHER THAN FERMENTATION, AT ANOTHER FEDERALLY BONDED WINERY.

(G) THROUGHOUT THE WINEMAKING PROCESS, THE LICENSEE SHALL:

(1) MAINTAIN OWNERSHIP OF THE WINE OR POMACE BRANDY;  
AND

(2) ENSURE THAT THE WINE OR POMACE BRANDY RETURNS TO THE LOCATION OF THE LIMITED WINERY.

11-507.

(a) This section applies only in Carroll County.

(b) (1) The following restrictions, limitations, and regulations apply.

(2) (i) Holders of “on–sale” licenses authorized under this article may sell, offer for sale, or dispense alcoholic beverages between 8 a.m. and 1 a.m. the following day and no other hours. Holders of these licenses may not sell, offer to sell or dispense any alcoholic beverages on Sunday except:

1. When the holder of that license is open for business on Saturday at midnight the licensee may remain open until 1 a.m. the Sunday immediately following;

2. Holders of Class C and H beer, wine and liquor licenses may reopen and may sell alcoholic beverages on Sundays between 11 a.m. and 1 a.m. the following Monday;

3. Holders of Class B beer, wine and liquor licenses may reopen and may sell alcoholic beverages on Sundays between 11 a.m. and 1 a.m. the following Monday; and

4. Holders of Class B beer and light wine, 7–day licenses may conduct “on–sales” of alcoholic beverages on Sundays between 11 a.m. and 1 a.m. the following Monday.

(ii) In all cases in which a closing time is indicated in this subsection a licensee may not permit the drinking of any alcoholic beverage on the premises 15 minutes following the closing time indicated.

(3) (i) Holders of “off–sale” licenses under this article may sell, offer for sale, or dispense the beverages defined in this article between 8 a.m. and 11 p.m. on Monday through Saturday, and between 11 a.m. and 11 p.m. on Sunday.

(ii) Holders of Class B beer and light wine, 7–day licenses may conduct “off–sales” of alcoholic beverages only between 8 a.m. and 11 p.m. on Monday through Saturday, and between 11 a.m. and 11 p.m. on Sunday.

[(4) A Class 4 manufacturer’s licensee may sell wine on Sundays, in a sealed package or container which may not be opened or the contents consumed on the licensee’s premises, subject to the other restrictions contained in § 2–205 of this article.]

[(5)] (4) A Class A wine licensee may sell wine on Sundays.

[(6)] (5) The hours established in this subtitle for the sale of alcoholic beverages in Carroll County are hereby declared to be in accordance with Eastern Standard Time when such time is effective and the hours are declared to be in accordance with daylight time when such time is effective.

11-511.

(a) This section applies only in Frederick County.

(b) This section does not apply to holders of Class E licenses.

(c) (1) Notwithstanding any other provision of this subtitle, the privilege conferred by every class of "on-sale" license may be exercised during the hours from 6 a.m. to 2 a.m. daily, except Sundays.

(2) On Sundays the hours are:

(i) On-sale – 11 a.m. to 2 a.m.; and

(ii) Off-sale – 1 p.m. to 2 a.m.

[(d) A Class 4 manufacturer's licensee may sell wine on Sundays, in a sealed package or container, which may not be opened or the contents consumed on the licensee's premises, subject to the other restrictions contained in § 2-205 of this article.]

[(e)] (D) (1) A Class A wine licensee may sell wine on Sundays.

(2) (i) The Board of License Commissioners may grant a special Sunday opening permit to a Class A beer, wine and liquor (off-sale) licensee.

(ii) The special Sunday opening permit authorizes the holder to sell beer, wine and liquor for off-premises consumption on Sundays from 12 noon to 12 midnight.

(iii) The annual fee for the special Sunday opening permit is \$650 in addition to the annual fee for the Class A beer, wine and liquor (off-sale) license.

(iv) The special Sunday opening permit is not considered a separate class of license and, if it is granted, the privilege shall be incorporated into the existing Class A beer, wine and liquor license.

(3) (i) The Board of License Commissioners may grant a special Sunday opening permit to a Class A beer and wine (off-sale) licensee.

(ii) The special Sunday opening permit authorizes the holder to sell beer and wine for off-premises consumption on Sundays from 12 noon to 12 midnight.

(iii) The annual fee for the special Sunday opening permit is \$140 in addition to the annual fee for the Class A beer and wine (off-sale) license.

(iv) The special Sunday opening permit is not considered a separate class of license and, if it is granted, the privilege shall be incorporated into the existing Class A beer and wine license.

(4) (i) The Board of License Commissioners may grant a special Sunday opening permit to a Class A beer (off-sale) licensee.

(ii) The special Sunday opening permit authorizes the holder to sell beer for off-premises consumption on Sundays from 12 noon to 12 midnight.

(iii) The annual fee for the special Sunday opening permit is \$100 in addition to the annual fee for the Class A beer (off-sale) license.

(iv) The special Sunday opening permit is not considered a separate class of license and, if it is granted, the privilege shall be incorporated into the existing Class A beer license.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all persons who hold a Class 4 Limited Winery license on or after the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) On or before ~~November 1~~ December 31, 2010, the Comptroller shall submit a report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the viability and efficacy of instituting in Maryland the policy of permitting direct shipment of wine to consumers in the State.

(b) The report shall include:

(1) an evaluation of the best practices used by the 37 states and the District of Columbia that allow direct wine shipment;

(2) an evaluation of related fiscal, tax, and other public policy and regulatory issues; and

(3) a determination regarding:

(i) the best practices for preventing access by underage drinkers to wine that is shipped directly to consumers;

(ii) any significant increase or decrease in access to or demand for wine by underage drinkers that has been documented as the result of direct wine shipment laws;

(iii) the best practices for collecting relevant tax revenues;

(iv) the benefits and costs to consumers; and

(v) the effect of direct wine shipment laws on in-state ~~wineries~~ alcoholic beverages licensees and other local businesses.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That, on or before December 1, 2012, the Comptroller shall 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 impact that the limitation of special event permits specified in § 2-101(x) of Article 2B of the Code, as enacted by Section 1 of this Act, has had on the growth of the Maryland wine industry.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 356

(Senate Bill 884)

AN ACT concerning

### **Baltimore County – Bargaining Unit for Public School Employees**

FOR the purpose of altering certain provisions of law relating to the designation of the exclusive representative for certain public school employees in Baltimore County; repealing provisions that authorized Baltimore County to designate as a separate bargaining unit only certain registered nurses in certain schools in the county; prohibiting more than two bargaining units in Baltimore County and requiring each unit to consist of certain employees; and generally relating to bargaining units for public school employees in Baltimore County.

BY repealing and reenacting, without amendments,  
 Article – Education  
 Section 6-401(d)(1) and (3)  
 Annotated Code of Maryland  
 (2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
 Article – Education  
 Section 6-404  
 Annotated Code of Maryland  
 (2008 Replacement Volume and 2009 Supplement)

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

**Article – Education**

6–401.

(d) (1) “Public school employee” means a certificated professional individual who is employed by a public school employer or an individual of equivalent status in Baltimore City, except for a county superintendent or an individual designated by the public school employer to act in a negotiating capacity as provided in § 6–408(b) of this subtitle.

(3) In Baltimore County, “public school employee” includes:

(i) A secondary school nurse, an elementary school nurse, and a special school nurse; and

(ii) Supervisory noncertificated employees as defined under § 6–501(h) of this title.

6–404.

(a) Each public school employer shall designate, as provided in this subtitle, which employee organization, if any, shall be the exclusive representative of all public school employees in a specified unit in the county.

(b) [(1) Except as provided in paragraph (2) of this subsection, the] **THE** public school employer shall determine the composition of the unit in negotiation with any employee organization that requests negotiation concerning the composition of the unit.

[(2) In Baltimore County, the public school employer may designate a separate unit comprised of all registered nurses employed by the county in elementary schools or special schools.]

(c) (1) [Except as provided in paragraph (2) of this subsection, there] **THERE** may not be more than two units in a county.

(2) In Baltimore County, [there may not be more than three units, provided that one unit consists of elementary and special school nurses and one unit consists] **ONE OF THE TWO UNITS SHALL CONSIST** of employees whose position requires an administrative and supervisory certificate and supervisory noncertificated employees as defined under § 6–501(h) of this title. **THE SECOND UNIT SHALL**

**CONSIST OF ALL OTHER PUBLIC SCHOOL EMPLOYEES AS DEFINED UNDER § 6-401(D)(1) AND (3) OF THIS SUBTITLE.**

- (d) All eligible public school employees shall:
- (1) Be included in one of these units; and
  - (2) Have the rights granted in this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 357**

**(House Bill 948)**

AN ACT concerning

### **Baltimore County – Bargaining Unit for Public School Employees**

FOR the purpose of altering certain provisions of law relating to the designation of the exclusive representative for certain public school employees in Baltimore County; repealing provisions that authorized Baltimore County to designate as a separate bargaining unit only certain registered nurses in certain schools in the county; prohibiting more than two bargaining units in Baltimore County and requiring each unit to consist of certain employees; and generally relating to bargaining units for public school employees in Baltimore County.

BY repealing and reenacting, without amendments,  
Article – Education  
Section 6-401(d)(1) and (3)  
Annotated Code of Maryland  
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
Article – Education  
Section 6-404  
Annotated Code of Maryland  
(2008 Replacement Volume and 2009 Supplement)

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

## Article – Education

6–401.

(d) (1) “Public school employee” means a certificated professional individual who is employed by a public school employer or an individual of equivalent status in Baltimore City, except for a county superintendent or an individual designated by the public school employer to act in a negotiating capacity as provided in § 6–408(b) of this subtitle.

(3) In Baltimore County, “public school employee” includes:

(i) A secondary school nurse, an elementary school nurse, and a special school nurse; and

(ii) Supervisory noncertificated employees as defined under § 6–501(h) of this title.

6–404.

(a) Each public school employer shall designate, as provided in this subtitle, which employee organization, if any, shall be the exclusive representative of all public school employees in a specified unit in the county.

(b) [(1) Except as provided in paragraph (2) of this subsection, the] **THE** public school employer shall determine the composition of the unit in negotiation with any employee organization that requests negotiation concerning the composition of the unit.

[(2) In Baltimore County, the public school employer may designate a separate unit comprised of all registered nurses employed by the county in elementary schools or special schools.]

(c) (1) [Except as provided in paragraph (2) of this subsection, there] **THERE** may not be more than two units in a county.

(2) In Baltimore County, [there may not be more than three units, provided that one unit consists of elementary and special school nurses and one unit consists] **ONE OF THE TWO UNITS SHALL CONSIST** of employees whose position requires an administrative and supervisory certificate and supervisory noncertificated employees as defined under § 6–501(h) of this title. **THE SECOND UNIT SHALL CONSIST OF ALL OTHER PUBLIC SCHOOL EMPLOYEES AS DEFINED UNDER § 6–401(D)(1) AND (3) OF THIS SUBTITLE.**

(d) All eligible public school employees shall:

- (1) Be included in one of these units; and
- (2) Have the rights granted in this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 358**

**(Senate Bill 483)**

AN ACT concerning

### **St. Mary's County Board of Education – Inclusion of Employees in Bargaining Unit**

FOR the purpose of including certain employees of the St. Mary's County Board of Education who do not hold a teaching certificate in a certain bargaining unit; and generally relating to the inclusion of certain employees of the St. Mary's County Board of Education in a certain bargaining unit.

BY repealing and reenacting, with amendments,  
Article – Education  
Section 6–404  
Annotated Code of Maryland  
(2008 Replacement Volume and 2009 Supplement)

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

#### **Article – Education**

6–404.

(a) Each public school employer shall designate, as provided in this subtitle, which employee organization, if any, shall be the exclusive representative of all public school employees in a specified unit in the county.

(b) (1) Except as provided in [paragraph] PARAGRAPHS (2) AND (3) of this subsection, the public school employer shall determine the composition of the unit in negotiation with any employee organization that requests negotiation concerning the composition of the unit.

(2) In Baltimore County, the public school employer may designate a separate unit comprised of all registered nurses employed by the county in elementary schools or special schools.

**(3) IN ST. MARY’S COUNTY, LICENSED REGISTERED SCHOOL NURSES, JUNIOR RESERVE OFFICERS’ TRAINING CORPS (~~ROTC~~) (JROTC) TEACHERS, AND SUPERVISORY NONCERTIFICATED EMPLOYEES OF THE PUBLIC SCHOOL EMPLOYER SHALL BE INCLUDED IN THE UNIT.**

(c) (1) Except as provided in paragraph (2) of this subsection, there may not be more than two units in a county.

(2) In Baltimore County, there may not be more than three units, provided that one unit consists of elementary and special school nurses and one unit consists of employees whose position requires an administrative and supervisory certificate and supervisory noncertificated employees as defined under § 6–501(h) of this title.

(d) All eligible public school employees shall:

(1) Be included in one of these units; and

(2) Have the rights granted in this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 359

(House Bill 981)

AN ACT concerning

### **St. Mary’s County Board of Education – Inclusion of Employees in Bargaining Unit**

FOR the purpose of including certain employees of the St. Mary’s County Board of Education who do not hold a teaching certificate in a certain bargaining unit; and generally relating to the inclusion of certain employees of the St. Mary’s County Board of Education in a certain bargaining unit.

BY repealing and reenacting, with amendments,  
Article – Education

Section 6-404  
Annotated Code of Maryland  
(2008 Replacement Volume and 2009 Supplement)

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

**Article – Education**

6-404.

(a) Each public school employer shall designate, as provided in this subtitle, which employee organization, if any, shall be the exclusive representative of all public school employees in a specified unit in the county.

(b) (1) Except as provided in [paragraph] **PARAGRAPHS (2) AND (3)** of this subsection, the public school employer shall determine the composition of the unit in negotiation with any employee organization that requests negotiation concerning the composition of the unit.

(2) In Baltimore County, the public school employer may designate a separate unit comprised of all registered nurses employed by the county in elementary schools or special schools.

**(3) IN ST. MARY'S COUNTY, LICENSED REGISTERED SCHOOL NURSES, JUNIOR RESERVE OFFICERS' TRAINING CORPS (~~ROTC~~) (JROTC) TEACHERS, AND SUPERVISORY NONCERTIFICATED EMPLOYEES OF THE PUBLIC SCHOOL EMPLOYER SHALL BE INCLUDED IN THE UNIT.**

(c) (1) Except as provided in paragraph (2) of this subsection, there may not be more than two units in a county.

(2) In Baltimore County, there may not be more than three units, provided that one unit consists of elementary and special school nurses and one unit consists of employees whose position requires an administrative and supervisory certificate and supervisory noncertificated employees as defined under § 6-501(h) of this title.

(d) All eligible public school employees shall:

(1) Be included in one of these units; and

(2) Have the rights granted in this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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**Chapter 360**

**(Senate Bill 904)**

AN ACT concerning

**St. Mary's County – Alcoholic Beverages – Class A Off-Sale License Quota**

FOR the purpose of prohibiting the Board of License Commissioners of St. Mary's County from issuing more than a certain number of Class A alcoholic beverages licenses with an off-sale privilege for each unit of a certain number of people in each election district in the county; requiring the Board to maintain the license quota by using the population figures of ~~the most recent federal census~~ a specified report; prohibiting the transfer of a certain license under certain circumstances; providing for the application of this Act; and generally relating to alcoholic beverages in St. Mary's County.

BY repealing and reenacting, without amendments,  
Article 2B – Alcoholic Beverages  
Section 9–219(a)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

BY adding to  
Article 2B – Alcoholic Beverages  
Section 9–219(d)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

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

**Article 2B – Alcoholic Beverages**

9–219.

(a) This section applies only in St. Mary's County.

(D) **(1) THE BOARD OF LICENSE COMMISSIONERS:**

~~(1)~~ **(1) MAY NOT ISSUE MORE THAN 1 CLASS A ALCOHOLIC BEVERAGES LICENSE WITH AN OFF-SALE PRIVILEGE, ~~REGARDLESS OF LICENSE~~**

~~CLASS~~, FOR EACH UNIT OF ~~4,000~~ 1,350 PEOPLE IN EACH ELECTION DISTRICT IN THE COUNTY; AND

~~(2)~~ (II) SHALL MAINTAIN THE LICENSE QUOTA STATED IN ITEM ~~(1)~~ (I) OF THIS ~~SUBSECTION ITEM~~ PARAGRAPH BY USING THE POPULATION FIGURES OF THE MOST RECENT ~~FEDERAL CENSUS~~ ST. MARY'S COUNTY PLANNING COMMISSION ANNUAL REPORT.

(2) A LICENSE ISSUED UNDER THIS SUBSECTION MAY NOT BE TRANSFERRED FROM ONE ELECTION DISTRICT TO ANOTHER ELECTION DISTRICT UNLESS THE TRANSFER CAN BE MADE WITHOUT EXCEEDING THE LICENSE QUOTA STATED IN ~~ITEM (1) PARAGRAPH (1)(I) OF THIS PARAGRAPH~~ SUBSECTION.

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 alcoholic beverages license issued in St. Mary's County before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 361

(Senate Bill 935)

AN ACT concerning

### Denial or Dismissal of ~~Domestic Violence~~ Peace Order or Protective Order Petition – ~~Expungement~~ Shielding of Records

FOR the purpose of authorizing a respondent in a certain ~~domestic violence~~ peace order or protective order proceeding to file a written request to ~~expunge shield~~ court records relating to the proceeding under certain circumstances; providing that a certain request for ~~expungement~~ shielding may not be filed within a certain time except under certain circumstances; requiring the court to schedule a hearing on a certain request; requiring the court to provide a certain notice of a certain hearing; requiring the court to order the ~~expungement~~ shielding of all court records relating to the proceeding under certain circumstances; providing a certain exception; requiring certain custodians to notify the court and the respondent of compliance with the order; authorizing access by certain persons

to certain ~~expunged~~ shielded records under certain circumstances; requiring the court to review certain court records before granting, denying, or modifying a final protective order; establishing that the failure to review certain records does not affect the validity of a final protective order; defining certain terms; and generally relating to ~~domestic violence and the expungement~~ the shielding and review of certain court records.

BY adding to

Article – Courts and Judicial Proceedings  
Section 3–1510  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 Supplement)

BY renumbering

Article – Family Law  
Section 4–506(e) through (j), respectively  
to be Section 4–506(f) through (k), respectively  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 Supplement)

BY adding to

Article – Family Law  
Section 4–506(e) and 4–512  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 4–506(e) through (j), respectively, of Article – Family Law of the Annotated Code of Maryland be renumbered to be Section(s) 4–506(f) through (k), respectively.

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

**Article – Courts and Judicial Proceedings**

**3–1510.**

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

**(2) (I) “COURT RECORD” MEANS AN OFFICIAL RECORD OF A COURT ABOUT A PROCEEDING THAT THE CLERK OF A COURT OR OTHER COURT PERSONNEL KEEPS.**

**(II) “COURT RECORD” INCLUDES:**

1. AN INDEX, A DOCKET ENTRY, A PETITION, A MEMORANDUM, A TRANSCRIPTION OF PROCEEDINGS, AN ELECTRONIC RECORDING, AN ORDER, AND A JUDGMENT; AND

2. ANY ELECTRONIC INFORMATION ABOUT A PROCEEDING ON THE WEBSITE MAINTAINED BY THE MARYLAND JUDICIARY.

(3) "SHIELD" MEANS TO REMOVE INFORMATION FROM PUBLIC INSPECTION IN ACCORDANCE WITH THIS SECTION.

(4) "SHIELDING" MEANS:

(I) WITH RESPECT TO A RECORD KEPT IN A COURTHOUSE, REMOVING TO A SEPARATE SECURE AREA TO WHICH PERSONS WHO DO NOT HAVE A LEGITIMATE REASON FOR ACCESS ARE DENIED ACCESS; AND

(II) WITH RESPECT TO ELECTRONIC INFORMATION ABOUT A PROCEEDING ON THE WEBSITE MAINTAINED BY THE MARYLAND JUDICIARY, REMOVING THE INFORMATION FROM THE PUBLIC WEBSITE.

(5) "VICTIM SERVICES PROVIDER" MEANS A NONPROFIT ORGANIZATION THAT HAS BEEN AUTHORIZED BY THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION OR THE DEPARTMENT OF HUMAN SERVICES TO HAVE ACCESS TO RECORDS OF SHIELDED PEACE ORDERS IN ORDER TO ASSIST VICTIMS OF ABUSE.

(B) IF A PETITION FILED UNDER THIS SUBTITLE IS DENIED OR DISMISSED AT THE INTERIM, TEMPORARY, OR FINAL PEACE ORDER STAGE OF A PROCEEDING UNDER THIS SUBTITLE, THE RESPONDENT MAY FILE A WRITTEN REQUEST TO SHIELD ALL COURT RECORDS RELATING TO THE PROCEEDING.

(C) A REQUEST FOR SHIELDING UNDER THIS SECTION MAY NOT BE FILED WITHIN 3 YEARS AFTER THE DENIAL OR DISMISSAL OF THE PETITION UNLESS THE RESPONDENT FILES WITH THE REQUEST A GENERAL WAIVER AND RELEASE OF ALL THE RESPONDENT'S TORT CLAIMS RELATED TO THE PROCEEDING UNDER THIS SUBTITLE.

(D) (1) ON THE FILING OF A REQUEST FOR SHIELDING UNDER THIS SECTION, THE COURT SHALL SCHEDULE A HEARING ON THE REQUEST.

(2) THE COURT SHALL GIVE NOTICE OF THE HEARING TO THE PETITIONER OR THE PETITIONER'S COUNSEL OF RECORD.

(3) EXCEPT AS PROVIDED IN PARAGRAPHS (4) AND (5) OF THIS SUBSECTION, AFTER THE HEARING, THE COURT SHALL ORDER THE SHIELDING OF ALL COURT RECORDS RELATING TO THE PROCEEDING IF THE COURT FINDS:

(I) THAT THE PETITION WAS DENIED OR DISMISSED AT THE INTERIM, TEMPORARY, OR FINAL PEACE ORDER STAGE OF THE PROCEEDING;

(II) THAT A FINAL PEACE ORDER OR PROTECTIVE ORDER HAS NOT BEEN PREVIOUSLY ISSUED IN A PROCEEDING BETWEEN THE PETITIONER AND THE RESPONDENT; AND

(III) THAT NONE OF THE FOLLOWING ARE PENDING AT THE TIME OF THE HEARING:

1. AN INTERIM OR TEMPORARY PEACE ORDER OR PROTECTIVE ORDER ISSUED IN A PROCEEDING BETWEEN THE PETITIONER AND THE RESPONDENT; OR

2. A CRIMINAL CHARGE AGAINST THE RESPONDENT ARISING FROM AN ALLEGED ACT DESCRIBED IN § 3-1503(A) OF THIS ARTICLE AGAINST THE PETITIONER.

(4) (I) IF THE PETITIONER APPEARS AT THE SHIELDING HEARING AND OBJECTS TO THE SHIELDING, THE COURT MAY, FOR GOOD CAUSE, DENY THE SHIELDING.

(II) IN DETERMINING WHETHER THERE IS GOOD CAUSE TO GRANT THE REQUEST TO SHIELD COURT RECORDS, THE COURT SHALL BALANCE THE PRIVACY OF THE RESPONDENT AND POTENTIAL DANGER OF ADVERSE CONSEQUENCES TO THE RESPONDENT AGAINST THE POTENTIAL RISK OF FUTURE HARM AND DANGER TO THE PETITIONER AND THE COMMUNITY.

(5) INFORMATION ABOUT THE PROCEEDING MAY NOT BE REMOVED FROM THE DOMESTIC VIOLENCE CENTRAL REPOSITORY.

(E) (1) THIS SECTION DOES NOT PRECLUDE THE FOLLOWING PERSONS FROM ACCESSING A SHIELDED RECORD FOR A LEGITIMATE REASON:

(I) A LAW ENFORCEMENT OFFICER;

(II) AN ATTORNEY WHO REPRESENTS OR HAS REPRESENTED THE PETITIONER OR THE RESPONDENT IN A PROCEEDING;

(III) A STATE'S ATTORNEY;

(IV) AN EMPLOYEE OF A LOCAL DEPARTMENT OF SOCIAL SERVICES; OR

(V) A VICTIM SERVICES PROVIDER.

(2) (I) A PERSON NOT LISTED IN PARAGRAPH (1) OF THIS SUBSECTION MAY SUBPOENA, OR FILE A MOTION FOR ACCESS TO, A RECORD SHIELDED UNDER THIS SECTION.

(II) IF THE COURT FINDS THAT THE PERSON HAS A LEGITIMATE REASON FOR ACCESS, THE COURT MAY GRANT THE PERSON ACCESS TO THE SHIELDED RECORD UNDER THE TERMS AND CONDITIONS THAT THE COURT DETERMINES.

(III) IN RULING ON A MOTION UNDER THIS PARAGRAPH, THE COURT SHALL BALANCE THE PERSON'S NEED FOR ACCESS TO THE RECORD WITH THE RESPONDENT'S RIGHT TO PRIVACY AND THE POTENTIAL HARM OF UNWARRANTED ADVERSE CONSEQUENCES TO THE RESPONDENT THAT THE DISCLOSURE MAY CREATE.

(F) WITHIN 60 DAYS AFTER ENTRY OF AN ORDER UNDER SUBSECTION (D)(3) OF THIS SECTION, EACH CUSTODIAN OF COURT RECORDS THAT ARE SUBJECT TO THE ORDER OF SHIELDING SHALL ADVISE IN WRITING THE COURT AND THE RESPONDENT OF COMPLIANCE WITH THE ORDER.

#### Article – Family Law

4-506.

(E) (1) BEFORE GRANTING, DENYING, OR MODIFYING A FINAL PROTECTIVE ORDER UNDER THIS SECTION, THE COURT SHALL REVIEW ALL OPEN AND SHIELDED COURT RECORDS INVOLVING THE PERSON ELIGIBLE FOR RELIEF AND THE RESPONDENT, INCLUDING RECORDS OF PROCEEDINGS UNDER:

(I) THE CRIMINAL LAW ARTICLE;

(II) TITLE 3, SUBTITLE 15 OF THE COURTS ARTICLE; AND

(III) THIS ARTICLE.

(2) THE COURT'S FAILURE TO REVIEW RECORDS UNDER THIS SUBSECTION DOES NOT AFFECT THE VALIDITY OF AN ORDER ISSUED UNDER THIS SECTION.

4-512.

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

(2) (I) “COURT RECORD” MEANS AN OFFICIAL RECORD OF A COURT ABOUT A PROCEEDING THAT THE CLERK OF A COURT OR OTHER COURT PERSONNEL KEEPS.

(II) “COURT RECORD” INCLUDES:

1. AN INDEX, A DOCKET ENTRY, A PETITION, A MEMORANDUM, A TRANSCRIPTION OF PROCEEDINGS, AN ELECTRONIC RECORDING, AN ORDER, AND A JUDGMENT; AND

2. ANY ELECTRONIC INFORMATION ABOUT A PROCEEDING ON THE WEBSITE MAINTAINED BY THE MARYLAND JUDICIARY.

(3) “~~EXPUNGE~~ SHIELD” MEANS TO REMOVE INFORMATION FROM PUBLIC INSPECTION IN ACCORDANCE WITH THIS SECTION.

(4) “~~EXPUNGEMENT~~ SHIELDING” MEANS:

(I) WITH RESPECT TO A RECORD KEPT IN A COURTHOUSE, ~~REMOVAL~~ REMOVING TO A SEPARATE SECURE AREA TO WHICH PERSONS WHO DO NOT HAVE A LEGITIMATE REASON FOR ACCESS ARE DENIED ACCESS; AND

(II) WITH RESPECT TO ELECTRONIC INFORMATION ABOUT A PROCEEDING ON THE WEBSITE MAINTAINED BY THE MARYLAND JUDICIARY, ~~REMOVAL OF~~ REMOVING THE INFORMATION FROM THE PUBLIC WEBSITE.

(5) “VICTIM SERVICES PROVIDER” MEANS A NONPROFIT ORGANIZATION THAT HAS BEEN AUTHORIZED BY THE GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION OR THE DEPARTMENT OF HUMAN SERVICES TO HAVE ACCESS TO RECORDS OF SHIELDED PROTECTIVE ORDERS IN ORDER TO ASSIST VICTIMS OF ABUSE.

(B) IF A PETITION FILED UNDER THIS SUBTITLE IS DENIED OR DISMISSED AT THE INTERIM, TEMPORARY, OR FINAL PROTECTIVE ORDER STAGE OF A PROCEEDING UNDER THIS SUBTITLE, THE RESPONDENT MAY FILE A WRITTEN REQUEST TO ~~EXPUNGE~~ SHIELD ALL COURT RECORDS RELATING TO THE PROCEEDING.

(C) A REQUEST FOR ~~EXPUNGEMENT~~ SHIELDING UNDER THIS SECTION MAY NOT BE FILED WITHIN 3 YEARS AFTER THE DENIAL OR DISMISSAL OF THE PETITION, UNLESS THE RESPONDENT FILES WITH THE REQUEST A GENERAL WAIVER AND RELEASE OF ALL THE RESPONDENT'S TORT CLAIMS RELATED TO THE PROCEEDING UNDER THIS SUBTITLE.

(D) (1) ON THE FILING OF A REQUEST FOR ~~EXPUNGEMENT~~ SHIELDING UNDER THIS SECTION, THE COURT SHALL SCHEDULE A HEARING ON THE REQUEST.

(2) THE COURT SHALL GIVE NOTICE OF THE HEARING TO THE PETITIONER OR THE PETITIONER'S COUNSEL OF RECORD.

(3) EXCEPT AS PROVIDED IN PARAGRAPHS (4) AND (5) OF THIS SUBSECTION, AFTER THE HEARING, THE COURT SHALL ORDER THE ~~EXPUNGEMENT~~ SHIELDING OF ALL COURT RECORDS RELATING TO THE PROCEEDING IF THE COURT FINDS:

(I) THAT THE PETITION WAS DENIED OR DISMISSED AT THE INTERIM, TEMPORARY, OR FINAL PROTECTIVE ORDER STAGE OF THE PROCEEDING; ~~AND~~

(II) THAT A FINAL PROTECTIVE ORDER OR PEACE ORDER HAS NOT BEEN PREVIOUSLY ISSUED ~~AGAINST THE RESPONDENT IN A PROCEEDING BETWEEN THE PETITIONER AND THE RESPONDENT AND THAT THERE IS NO INTERIM OR TEMPORARY PROTECTIVE ORDER PENDING AGAINST THE RESPONDENT AT THE TIME OF THE HEARING; AND~~

(III) THAT NONE OF THE FOLLOWING ARE PENDING AT THE TIME OF THE HEARING:

1. AN INTERIM OR TEMPORARY PROTECTIVE ORDER OR PEACE ORDER ISSUED IN A PROCEEDING BETWEEN THE PETITIONER AND THE RESPONDENT; OR

2. A CRIMINAL CHARGE AGAINST THE RESPONDENT ARISING FROM ALLEGED ABUSE AGAINST THE PETITIONER.

(4) (I) IF THE PETITIONER APPEARS AT THE ~~EXPUNGEMENT~~ SHIELDING HEARING AND OBJECTS TO THE ~~EXPUNGEMENT~~ SHIELDING, THE COURT MAY, FOR GOOD CAUSE, DENY THE ~~EXPUNGEMENT~~ SHIELDING.

~~(H) THE COURT MAY NOT DENY AN EXPUNGEMENT IF THE COURT FINDS THAT THE PRIVACY OF THE RESPONDENT OR THE DANGER OF~~

~~ADVERSE CONSEQUENCES TO THE RESPONDENT OUTWEIGH THE PUBLIC INTEREST IN HAVING THE RECORD REMAIN PUBLIC.~~

(II) IN DETERMINING WHETHER THERE IS GOOD CAUSE TO GRANT THE REQUEST TO SHIELD COURT RECORDS, THE COURT SHALL BALANCE THE PRIVACY OF THE RESPONDENT AND POTENTIAL DANGER OF ADVERSE CONSEQUENCES TO THE RESPONDENT AGAINST THE POTENTIAL RISK OF FUTURE HARM AND DANGER TO THE PETITIONER AND THE COMMUNITY.

(5) INFORMATION ABOUT THE PROCEEDING MAY NOT BE REMOVED FROM THE DOMESTIC VIOLENCE CENTRAL REPOSITORY.

(E) (1) ~~THIS SECTION DOES NOT PRECLUDE A LAW ENFORCEMENT OFFICER, AN OFFICER OF THE COURT, OR A STATE'S ATTORNEY WITH A LEGITIMATE PURPOSE FROM HAVING ACCESS TO AN EXPUNGED RECORD~~ THE FOLLOWING PERSONS FROM ACCESSING A SHIELDED RECORD FOR A LEGITIMATE REASON:

(I) A LAW ENFORCEMENT OFFICER;

(II) AN ATTORNEY WHO REPRESENTS OR HAS REPRESENTED THE PETITIONER OR THE RESPONDENT IN A PROCEEDING;

(III) A STATE'S ATTORNEY;

(IV) AN EMPLOYEE OF A LOCAL DEPARTMENT; OR

(V) A VICTIM SERVICES PROVIDER.

(2) (I) A PERSON NOT LISTED IN PARAGRAPH (1) OF THIS SUBSECTION MAY SUBPOENA, OR FILE A MOTION FOR ACCESS TO, A RECORD ~~EXPUNGED~~ SHIELDED UNDER THIS SECTION.

(II) IF THE COURT FINDS THAT THE PERSON HAS A LEGITIMATE REASON FOR ACCESS, THE COURT MAY GRANT THE PERSON ACCESS TO THE ~~EXPUNGED~~ SHIELDED RECORD UNDER THE TERMS AND CONDITIONS THAT THE COURT DETERMINES.

(III) IN RULING ON A MOTION UNDER THIS PARAGRAPH, THE COURT SHALL BALANCE THE PERSON'S NEED FOR ACCESS TO THE RECORD WITH THE RESPONDENT'S RIGHT TO PRIVACY AND THE POTENTIAL HARM ~~AND DANGER~~ OF UNWARRANTED ADVERSE CONSEQUENCES TO THE RESPONDENT THAT THE DISCLOSURE MAY CREATE.

(F) WITHIN 60 DAYS AFTER ENTRY OF AN ORDER UNDER SUBSECTION (D)(3) OF THIS SECTION, EACH CUSTODIAN OF COURT RECORDS THAT ARE SUBJECT TO THE ORDER OF ~~EXPUNGEMENT~~ SHIELDING SHALL ADVISE IN WRITING THE COURT AND THE RESPONDENT OF COMPLIANCE WITH THE ORDER.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 362

(House Bill 1149)

AN ACT concerning

### **Denial or Dismissal of ~~Domestic Violence~~ Peace Order or Protective Order Petition – ~~Expungement~~ Shielding of Records**

FOR the purpose of authorizing a respondent in a certain ~~domestic violence~~ peace order or protective order proceeding to file a written request to ~~expunge~~ shield court records relating to the proceeding under certain circumstances; providing that a certain request for ~~expungement~~ shielding may not be filed within a certain time except under certain circumstances; requiring the court to schedule a hearing on a certain request; requiring the court to provide a certain notice of a certain hearing; requiring the court to order the ~~expungement~~ shielding of all court records relating to the proceeding under certain circumstances; providing a certain exception; requiring certain custodians to notify the court and the respondent of compliance with the order; authorizing access by certain persons to certain ~~expunged~~ shielded records under certain circumstances; requiring the court to review certain court records before granting, denying, or modifying a final protective order; establishing that the failure to review certain records does not affect the validity of a final protective order; defining certain terms; and generally relating to ~~domestic violence and the expungement~~ the shielding and review of certain court records.

BY adding to

Article – Courts and Judicial Proceedings

Section 3-1510

Annotated Code of Maryland

(2006 Replacement Volume and 2009 Supplement)

BY renumbering

Article – Family Law

Section 4-506(e) through (j), respectively

to be Section 4–506(f) through (k), respectively  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 Supplement)

BY adding to

Article – Family Law  
Section 4–506(e) and 4–512  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 4–506(e) through (j), respectively, of Article – Family Law of the Annotated Code of Maryland be renumbered to be Section(s) 4–506(f) through (k), respectively.

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

**Article – Courts and Judicial Proceedings**

**3–1510.**

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

**(2) (I) “COURT RECORD” MEANS AN OFFICIAL RECORD OF A COURT ABOUT A PROCEEDING THAT THE CLERK OF A COURT OR OTHER COURT PERSONNEL KEEPS.**

**(II) “COURT RECORD” INCLUDES:**

**1. AN INDEX, A DOCKET ENTRY, A PETITION, A MEMORANDUM, A TRANSCRIPTION OF PROCEEDINGS, AN ELECTRONIC RECORDING, AN ORDER, AND A JUDGMENT; AND**

**2. ANY ELECTRONIC INFORMATION ABOUT A PROCEEDING ON THE WEBSITE MAINTAINED BY THE MARYLAND JUDICIARY.**

**(3) “SHIELD” MEANS TO REMOVE INFORMATION FROM PUBLIC INSPECTION IN ACCORDANCE WITH THIS SECTION.**

**(4) “SHIELDING” MEANS:**

(I) WITH RESPECT TO A RECORD KEPT IN A COURTHOUSE, REMOVING TO A SEPARATE SECURE AREA TO WHICH PERSONS WHO DO NOT HAVE A LEGITIMATE REASON FOR ACCESS ARE DENIED ACCESS; AND

(II) WITH RESPECT TO ELECTRONIC INFORMATION ABOUT A PROCEEDING ON THE WEBSITE MAINTAINED BY THE MARYLAND JUDICIARY, REMOVING THE INFORMATION FROM THE PUBLIC WEBSITE.

(5) "VICTIM SERVICES PROVIDER" MEANS A NONPROFIT ORGANIZATION THAT HAS BEEN AUTHORIZED BY THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION OR THE DEPARTMENT OF HUMAN SERVICES TO HAVE ACCESS TO RECORDS OF SHIELDED PEACE ORDERS IN ORDER TO ASSIST VICTIMS OF ABUSE.

(B) IF A PETITION FILED UNDER THIS SUBTITLE IS DENIED OR DISMISSED AT THE INTERIM, TEMPORARY, OR FINAL PEACE ORDER STAGE OF A PROCEEDING UNDER THIS SUBTITLE, THE RESPONDENT MAY FILE A WRITTEN REQUEST TO SHIELD ALL COURT RECORDS RELATING TO THE PROCEEDING.

(C) A REQUEST FOR SHIELDING UNDER THIS SECTION MAY NOT BE FILED WITHIN 3 YEARS AFTER THE DENIAL OR DISMISSAL OF THE PETITION UNLESS THE RESPONDENT FILES WITH THE REQUEST A GENERAL WAIVER AND RELEASE OF ALL THE RESPONDENT'S TORT CLAIMS RELATED TO THE PROCEEDING UNDER THIS SUBTITLE.

(D) (1) ON THE FILING OF A REQUEST FOR SHIELDING UNDER THIS SECTION, THE COURT SHALL SCHEDULE A HEARING ON THE REQUEST.

(2) THE COURT SHALL GIVE NOTICE OF THE HEARING TO THE PETITIONER OR THE PETITIONER'S COUNSEL OF RECORD.

(3) EXCEPT AS PROVIDED IN PARAGRAPHS (4) AND (5) OF THIS SUBSECTION, AFTER THE HEARING, THE COURT SHALL ORDER THE SHIELDING OF ALL COURT RECORDS RELATING TO THE PROCEEDING IF THE COURT FINDS:

(I) THAT THE PETITION WAS DENIED OR DISMISSED AT THE INTERIM, TEMPORARY, OR FINAL PEACE ORDER STAGE OF THE PROCEEDING;

(II) THAT A FINAL PEACE ORDER OR PROTECTIVE ORDER HAS NOT BEEN PREVIOUSLY ISSUED IN A PROCEEDING BETWEEN THE PETITIONER AND THE RESPONDENT; AND

(III) THAT NONE OF THE FOLLOWING ARE PENDING AT THE TIME OF THE HEARING:

1. AN INTERIM OR TEMPORARY PEACE ORDER OR PROTECTIVE ORDER ISSUED IN A PROCEEDING BETWEEN THE PETITIONER AND THE RESPONDENT; OR

2. A CRIMINAL CHARGE AGAINST THE RESPONDENT ARISING FROM AN ALLEGED ACT DESCRIBED IN § 3-1503(A) OF THIS ARTICLE AGAINST THE PETITIONER.

(4) (I) IF THE PETITIONER APPEARS AT THE SHIELDING HEARING AND OBJECTS TO THE SHIELDING, THE COURT MAY, FOR GOOD CAUSE, DENY THE SHIELDING.

(II) IN DETERMINING WHETHER THERE IS GOOD CAUSE TO GRANT THE REQUEST TO SHIELD COURT RECORDS, THE COURT SHALL BALANCE THE PRIVACY OF THE RESPONDENT AND POTENTIAL DANGER OF ADVERSE CONSEQUENCES TO THE RESPONDENT AGAINST THE POTENTIAL RISK OF FUTURE HARM AND DANGER TO THE PETITIONER AND THE COMMUNITY.

(5) INFORMATION ABOUT THE PROCEEDING MAY NOT BE REMOVED FROM THE DOMESTIC VIOLENCE CENTRAL REPOSITORY.

(E) (1) THIS SECTION DOES NOT PRECLUDE THE FOLLOWING PERSONS FROM ACCESSING A SHIELDED RECORD FOR A LEGITIMATE REASON:

(I) A LAW ENFORCEMENT OFFICER;

(II) AN ATTORNEY WHO REPRESENTS OR HAS REPRESENTED THE PETITIONER OR THE RESPONDENT IN A PROCEEDING;

(III) A STATE'S ATTORNEY;

(IV) AN EMPLOYEE OF A LOCAL DEPARTMENT OF SOCIAL SERVICES; OR

(V) A VICTIM SERVICES PROVIDER.

(2) (I) A PERSON NOT LISTED IN PARAGRAPH (1) OF THIS SUBSECTION MAY SUBPOENA, OR FILE A MOTION FOR ACCESS TO, A RECORD SHIELDED UNDER THIS SECTION.

(II) IF THE COURT FINDS THAT THE PERSON HAS A LEGITIMATE REASON FOR ACCESS, THE COURT MAY GRANT THE PERSON

ACCESS TO THE SHIELDED RECORD UNDER THE TERMS AND CONDITIONS THAT THE COURT DETERMINES.

(III) IN RULING ON A MOTION UNDER THIS PARAGRAPH, THE COURT SHALL BALANCE THE PERSON'S NEED FOR ACCESS TO THE RECORD WITH THE RESPONDENT'S RIGHT TO PRIVACY AND THE POTENTIAL HARM OF UNWARRANTED ADVERSE CONSEQUENCES TO THE RESPONDENT THAT THE DISCLOSURE MAY CREATE.

(F) WITHIN 60 DAYS AFTER ENTRY OF AN ORDER UNDER SUBSECTION (D)(3) OF THIS SECTION, EACH CUSTODIAN OF COURT RECORDS THAT ARE SUBJECT TO THE ORDER OF SHIELDING SHALL ADVISE IN WRITING THE COURT AND THE RESPONDENT OF COMPLIANCE WITH THE ORDER.

#### Article – Family Law

4-506.

(E) (1) BEFORE GRANTING, DENYING, OR MODIFYING A FINAL PROTECTIVE ORDER UNDER THIS SECTION, THE COURT SHALL REVIEW ALL OPEN AND SHIELDED COURT RECORDS INVOLVING THE PERSON ELIGIBLE FOR RELIEF AND THE RESPONDENT, INCLUDING RECORDS OF PROCEEDINGS UNDER:

(I) THE CRIMINAL LAW ARTICLE;

(II) TITLE 3, SUBTITLE 15 OF THE COURTS ARTICLE; AND

(III) THIS ARTICLE.

(2) THE COURT'S FAILURE TO REVIEW RECORDS UNDER THIS SUBSECTION DOES NOT AFFECT THE VALIDITY OF AN ORDER ISSUED UNDER THIS SECTION.

4-512.

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

(2) (I) "COURT RECORD" MEANS AN OFFICIAL RECORD OF A COURT ABOUT A PROCEEDING THAT THE CLERK OF A COURT OR OTHER COURT PERSONNEL KEEPS.

(II) "COURT RECORD" INCLUDES:

1. AN INDEX, A DOCKET ENTRY, A PETITION, A MEMORANDUM, A TRANSCRIPTION OF PROCEEDINGS, AN ELECTRONIC RECORDING, AN ORDER, AND A JUDGMENT; AND

2. ANY ELECTRONIC INFORMATION ABOUT A PROCEEDING ON THE WEBSITE MAINTAINED BY THE MARYLAND JUDICIARY.

(3) “~~EXPUNGE~~ SHIELD” MEANS TO REMOVE INFORMATION FROM PUBLIC INSPECTION IN ACCORDANCE WITH THIS SECTION.

(4) “~~EXPUNGEMENT~~ SHIELDING” MEANS:

(I) WITH RESPECT TO A RECORD KEPT IN A COURTHOUSE, ~~REMOVAL~~ REMOVING TO A SEPARATE SECURE AREA TO WHICH PERSONS WHO DO NOT HAVE A LEGITIMATE REASON FOR ACCESS ARE DENIED ACCESS; AND

(II) WITH RESPECT TO ELECTRONIC INFORMATION ABOUT A PROCEEDING ON THE WEBSITE MAINTAINED BY THE MARYLAND JUDICIARY, ~~REMOVAL OF~~ REMOVING THE INFORMATION FROM THE PUBLIC WEBSITE.

(5) “VICTIM SERVICES PROVIDER” MEANS A NONPROFIT ORGANIZATION THAT HAS BEEN AUTHORIZED BY THE GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION OR THE DEPARTMENT OF HUMAN SERVICES TO HAVE ACCESS TO RECORDS OF SHIELDED PROTECTIVE ORDERS IN ORDER TO ASSIST VICTIMS OF ABUSE.

(B) IF A PETITION FILED UNDER THIS SUBTITLE IS DENIED OR DISMISSED AT THE INTERIM, TEMPORARY, OR FINAL PROTECTIVE ORDER STAGE OF A PROCEEDING UNDER THIS SUBTITLE, THE RESPONDENT MAY FILE A WRITTEN REQUEST TO ~~EXPUNGE~~ SHIELD ALL COURT RECORDS RELATING TO THE PROCEEDING.

(C) A REQUEST FOR ~~EXPUNGEMENT~~ SHIELDING UNDER THIS SECTION MAY NOT BE FILED WITHIN 3 YEARS AFTER THE DENIAL OR DISMISSAL OF THE PETITION, UNLESS THE RESPONDENT FILES WITH THE REQUEST A GENERAL WAIVER AND RELEASE OF ALL THE RESPONDENT’S TORT CLAIMS RELATED TO THE PROCEEDING UNDER THIS SUBTITLE.

(D) (1) ON THE FILING OF A REQUEST FOR ~~EXPUNGEMENT~~ SHIELDING UNDER THIS SECTION, THE COURT SHALL SCHEDULE A HEARING ON THE REQUEST.

(2) THE COURT SHALL GIVE NOTICE OF THE HEARING TO THE PETITIONER OR THE PETITIONER’S COUNSEL OF RECORD.

(3) EXCEPT AS PROVIDED IN PARAGRAPHS (4) AND (5) OF THIS SUBSECTION, AFTER THE HEARING, THE COURT SHALL ORDER THE ~~EXPUNGEMENT~~ SHIELDING OF ALL COURT RECORDS RELATING TO THE PROCEEDING IF THE COURT FINDS:

(I) THAT THE PETITION WAS DENIED OR DISMISSED AT THE INTERIM, TEMPORARY, OR FINAL PROTECTIVE ORDER STAGE OF THE PROCEEDING; ~~AND~~

(II) THAT A FINAL PROTECTIVE ORDER OR PEACE ORDER HAS NOT BEEN PREVIOUSLY ISSUED ~~AGAINST THE RESPONDENT AND THAT THERE IS NO INTERIM OR TEMPORARY PROTECTIVE ORDER PENDING AGAINST THE RESPONDENT AT THE TIME OF THE HEARING~~ IN A PROCEEDING BETWEEN THE PETITIONER AND THE RESPONDENT; AND

(III) THAT NONE OF THE FOLLOWING ARE PENDING AT THE TIME OF THE HEARING:

1. AN INTERIM OR TEMPORARY PROTECTIVE ORDER OR PEACE ORDER ISSUED IN A PROCEEDING BETWEEN THE PETITIONER AND THE RESPONDENT; OR

2. A CRIMINAL CHARGE AGAINST THE RESPONDENT ARISING FROM ALLEGED ABUSE AGAINST THE PETITIONER.

(4) (I) IF THE PETITIONER APPEARS AT THE ~~EXPUNGEMENT~~ SHIELDING HEARING AND OBJECTS TO THE ~~EXPUNGEMENT~~ SHIELDING, THE COURT MAY, FOR GOOD CAUSE, DENY THE ~~EXPUNGEMENT~~ SHIELDING.

~~(H) THE COURT MAY NOT DENY AN EXPUNGEMENT IF THE COURT FINDS THAT THE PRIVACY OF THE RESPONDENT OR THE DANGER OF ADVERSE CONSEQUENCES TO THE RESPONDENT OUTWEIGH THE PUBLIC INTEREST IN HAVING THE RECORD REMAIN PUBLIC.~~

(II) IN DETERMINING WHETHER THERE IS GOOD CAUSE TO GRANT THE REQUEST TO SHIELD COURT RECORDS, THE COURT SHALL BALANCE THE PRIVACY OF THE RESPONDENT AND POTENTIAL DANGER OF ADVERSE CONSEQUENCES TO THE RESPONDENT AGAINST THE POTENTIAL RISK OF FUTURE HARM AND DANGER TO THE PETITIONER AND THE COMMUNITY.

(5) INFORMATION ABOUT THE PROCEEDING MAY NOT BE REMOVED FROM THE DOMESTIC VIOLENCE CENTRAL REPOSITORY.

(E) (1) ~~THIS SECTION DOES NOT PRECLUDE A LAW ENFORCEMENT OFFICER, AN OFFICER OF THE COURT, OR A STATE'S ATTORNEY WITH A LEGITIMATE PURPOSE FROM HAVING ACCESS TO AN EXPUNGED RECORD~~ THE FOLLOWING PERSONS FROM ACCESSING A SHIELDED RECORD FOR A LEGITIMATE REASON:

(I) A LAW ENFORCEMENT OFFICER;

(II) AN ATTORNEY WHO REPRESENTS OR HAS REPRESENTED THE PETITIONER OR THE RESPONDENT IN A PROCEEDING;

(III) A STATE'S ATTORNEY;

(IV) AN EMPLOYEE OF A LOCAL DEPARTMENT; OR

(V) A VICTIM SERVICES PROVIDER.

(2) (I) A PERSON NOT LISTED IN PARAGRAPH (1) OF THIS SUBSECTION MAY SUBPOENA, OR FILE A MOTION FOR ACCESS TO, A RECORD ~~EXPUNGED~~ SHIELDED UNDER THIS SECTION.

(II) IF THE COURT FINDS THAT THE PERSON HAS A LEGITIMATE REASON FOR ACCESS, THE COURT MAY GRANT THE PERSON ACCESS TO THE ~~EXPUNGED~~ SHIELDED RECORD UNDER THE TERMS AND CONDITIONS THAT THE COURT DETERMINES.

(III) IN RULING ON A MOTION UNDER THIS PARAGRAPH, THE COURT SHALL BALANCE THE PERSON'S NEED FOR ACCESS TO THE RECORD WITH THE RESPONDENT'S RIGHT TO PRIVACY AND THE POTENTIAL HARM ~~AND DANGER~~ OF UNWARRANTED ADVERSE CONSEQUENCES TO THE RESPONDENT THAT THE DISCLOSURE MAY CREATE.

(F) WITHIN 60 DAYS AFTER ENTRY OF AN ORDER UNDER SUBSECTION (D)(3) OF THIS SECTION, EACH CUSTODIAN OF COURT RECORDS THAT ARE SUBJECT TO THE ORDER OF ~~EXPUNGEMENT~~ SHIELDING SHALL ADVISE IN WRITING THE COURT AND THE RESPONDENT OF COMPLIANCE WITH THE ORDER.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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**Chapter 363****(Senate Bill 940)**

AN ACT concerning

**Vehicle Laws – Parking for Individuals with Disabilities – Zoning**

FOR the purpose of making certain provisions related to exceptions to local zoning ordinances for compliance with the Maryland Accessibility Code applicable to certain local jurisdictions; clarifying that a local jurisdiction is required to provide an exception to local zoning ordinances when necessary to bring an existing parking lot into compliance with Maryland Accessibility Code requirements for parking spaces for individuals with disabilities; providing that a person may comply with Maryland Accessibility Code requirements governing certain disabled parking spaces by restriping the parking lot; requiring a local jurisdiction to grant an exception to certain local zoning ordinances for certain parking lots under certain circumstances; requiring that a certain exception process be used for compliance with certain provisions of the Maryland Accessibility Code for certain development; making certain technical corrections; and generally relating to local zoning ordinances governing parking for individuals with disabilities.

BY repealing and reenacting, with amendments,  
Article 66B – Land Use  
Section 1.03, 2.13, and 4.04(c)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,  
Article – Public Safety  
Section 12–202(a) through (c)  
Annotated Code of Maryland  
(2003 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
Article – Transportation  
Section 21–1006  
Annotated Code of Maryland  
(2009 Replacement Volume and 2009 Supplement)

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

**Article 66B – Land Use**

1.03.

- (a) Except as provided in this section, this article does not apply to charter counties.
- (b) The following sections of this article apply to a charter county:
- (1) § 1.00(j) (Definition of “sensitive areas”);
  - (2) § 1.01 (Visions);
  - (3) § 1.02 (Consistency with **COMPREHENSIVE** plans);
  - (4) § ~~[1.03]~~ **1.04** (Charter county – Comprehensive plans);
  - (5) § 3.02(h) (Planning Commission – Education);
  - (6) § 3.09 (Annual report – Preparation and filing);
  - (7) § 3.10 (Annual report – Smart Growth goals, measures, and indicators);
  - (8) § 4.01(b)(2) (Regulation of bicycle parking);
  - (9) **§ 4.04(C) (EXCEPTIONS RELATED TO THE MARYLAND ACCESSIBILITY CODE);**
  - (10) § 4.07(i) (Board of Appeals – Education);
  - ~~[(10)]~~ **(11)** § 5.03(d) (Easements for burial sites);
  - ~~[(11)]~~ **(12)** § 7.02 (Civil penalty for zoning violation);
  - ~~[(12)]~~ **(13)** § 10.01 (Adequate Public Facilities Ordinances);
  - ~~[(13)]~~ **(14)** § 11.01 (Transfer of Development Rights);
  - ~~[(14)]~~ **(15)** § 12.01 (Inclusionary Zoning);
  - ~~[(15)]~~ **(16)** Except in Montgomery County or Prince George’s County, § 13.01 (Development rights and responsibilities agreements);
  - ~~[(16)]~~ **(17)** For Baltimore County only, § 14.02; and
  - ~~[(17)]~~ **(18)** For Howard County only, § 14.06.1.

(c) This section supersedes any inconsistent provision of Article 28 of the Code.

2.13.

(a) Except as provided in subsection (b) of this section, §§ 3.01 through 8.15 of this article do not apply in Baltimore City.

(b) The following sections of this article apply to Baltimore City:

- (1) § 1.00(j) (Definition of “sensitive areas”);
- (2) § 1.01 (Visions);
- (3) § 1.02 (Consistency with **COMPREHENSIVE** plans);
- (4) § [1.03] **1.04** (Charter county – Comprehensive plans);
- (5) § 3.02(h) (Planning Commission – Education);
- (6) § 3.09 (Annual report – Preparation and filing);
- (7) § 3.10 (Annual report – Smart Growth goals, measures, and indicators);
- (8) § 4.01(b)(2) (Regulation of bicycle parking);
- (9) § **4.04(C) (EXCEPTIONS RELATED TO THE MARYLAND ACCESSIBILITY CODE)**;
- (10) § 4.07(i) (Board of Appeals – Education);
- [(10)] **(11)** § 5.03(d) (Easements for burial sites);
- [(11)] **(12)** § 7.02 (Civil penalty for zoning violation);
- [(12)] **(13)** § 10.01 (Adequate Public Facilities Ordinances);
- [(13)] **(14)** § 11.01 (Transfer of Development Rights);
- [(14)] **(15)** § 12.01 (Inclusionary Zoning); and
- [(15)] **(16)** § 13.01 (Development Rights and Responsibilities Agreements).

4.04.

(c) A local legislative body shall provide for exceptions to local zoning ordinances when necessary to bring an existing parking lot into compliance with the **REQUIREMENTS FOR PARKING SPACES FOR INDIVIDUALS WITH DISABILITIES AND THE** van-accessible parking ratio requirement of the Maryland Accessibility Code adopted under § 12-202 of the Public Safety Article.

### Article – Public Safety

12-202.

(a) In this section, “Department” means the Department of Housing and Community Development.

(b) (1) The Department shall adopt by regulation a State building code to make buildings and facilities accessible and usable by individuals with physical disabilities to the extent feasible.

(2) The regulations shall be developed in conjunction with:

(i) the Governor’s Committee on Employment of People with Disabilities;

(ii) the Maryland Rehabilitation Association; and

(iii) the Maryland Society of Architects.

(c) The Maryland Accessibility Code shall be enforced by local jurisdictions or any other governmental units with authority over buildings or facilities.

### Article – Transportation

21-1006.

(a) (1) Each parking lot that is constructed or altered after October 1, 1996 shall conform with the requirements of the Maryland Accessibility Code adopted under § 12-202 of the Public Safety Article.

(2) **(I)** As of October 1, 2010, each parking lot in the State shall conform with the requirements of the Maryland Accessibility Code adopted under § 12-202 of the Public Safety Article.

**(II) A PERSON MAY COMPLY WITH THIS PARAGRAPH BY RESTRIPING THE PARKING LOT TO PROVIDE THE REQUIRED NUMBER OF PARKING SPACES FOR INDIVIDUALS WITH DISABILITIES, INCLUDING PARKING SPACES THAT ARE DISABLED VAN ACCESSIBLE.**

**(III) IF RESTRIPING A PARKING LOT TO COMPLY WITH THIS SUBSECTION REDUCES THE TOTAL NUMBER OF SPACES TO BELOW THE NUMBER REQUIRED BY LOCAL LAW, THE LOCAL JURISDICTION SHALL GRANT THE PROPERTY OWNER AN EXCEPTION TO THE RELEVANT LOCAL ZONING ORDINANCE.**

(b) A person may not park a motor vehicle in a space designated for the use of individuals with disabilities unless:

(1) The vehicle bears a special registration plate, a removable windshield placard, or a temporary removable windshield placard issued by the Administration under § 13-616, § 13-616.1, or § 13-616.2 of this article or similarly by another state, the District of Columbia, or another country; and

(2) The person is authorized to use the privileges conferred by the special registration plate, removable windshield placard, or temporary placard under § 13-616, § 13-616.1, or § 13-616.2 of this article, or under the laws of another state, the District of Columbia, or another country.

(c) Any restriping or repaving of a parking lot shall be considered an alteration under the Maryland Accessibility Code adopted under § 12-202 of the Public Safety Article.

SECTION 2. AND BE IT FURTHER ENACTED, That, for development approved before the effective date of this Act, the exception process required under Article 66B, § 4.04(c) of the Code, as amended by this Act, shall be used for compliance with Maryland Accessibility Code requirements governing disabled parking instead of any other relevant special exception or variance process required by other provisions of State or local law.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 364**

**(House Bill 1416)**

AN ACT concerning

**Vehicle Laws – Parking for Individuals with Disabilities – Zoning**

FOR the purpose of making certain provisions related to exceptions to local zoning ordinances for compliance with the Maryland Accessibility Code applicable to certain local jurisdictions; clarifying that a local jurisdiction is required to provide an exception to local zoning ordinances when necessary to bring an existing parking lot into compliance with Maryland Accessibility Code requirements for parking spaces for individuals with disabilities; providing that a person may comply with Maryland Accessibility Code requirements governing certain disabled parking spaces by restriping the parking lot; requiring a local jurisdiction to grant an exception to certain local zoning ordinances for certain parking lots under certain circumstances; requiring that a certain exception process be used for compliance with certain provisions of the Maryland Accessibility Code for certain development; making certain technical corrections; and generally relating to local zoning ordinances governing parking for individuals with disabilities.

BY repealing and reenacting, with amendments,  
Article 66B – Land Use  
Section 1.03, 2.13, and 4.04(c)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,  
Article – Public Safety  
Section 12–202(a) through (c)  
Annotated Code of Maryland  
(2003 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
Article – Transportation  
Section 21–1006  
Annotated Code of Maryland  
(2009 Replacement Volume and 2009 Supplement)

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

**Article 66B – Land Use**

1.03.

(a) Except as provided in this section, this article does not apply to charter counties.

(b) The following sections of this article apply to a charter county:

(1) § 1.00(j) (Definition of “sensitive areas”);

- (2) § 1.01 (Visions);
  - (3) § 1.02 (Consistency with **COMPREHENSIVE** plans);
  - (4) § ~~[1.03]~~ **1.04** (Charter county – Comprehensive plans);
  - (5) § 3.02(h) (Planning Commission – Education);
  - (6) § 3.09 (Annual report – Preparation and filing);
  - (7) § 3.10 (Annual report – Smart Growth goals, measures, and indicators);
  - (8) § 4.01(b)(2) (Regulation of bicycle parking);
  - (9) **§ 4.04(C) (EXCEPTIONS RELATED TO THE MARYLAND ACCESSIBILITY CODE);**
  - (10) § 4.07(i) (Board of Appeals – Education);
  - ~~[(10)]~~ **(11)** § 5.03(d) (Easements for burial sites);
  - ~~[(11)]~~ **(12)** § 7.02 (Civil penalty for zoning violation);
  - ~~[(12)]~~ **(13)** § 10.01 (Adequate Public Facilities Ordinances);
  - ~~[(13)]~~ **(14)** § 11.01 (Transfer of Development Rights);
  - ~~[(14)]~~ **(15)** § 12.01 (Inclusionary Zoning);
  - ~~[(15)]~~ **(16)** Except in Montgomery County or Prince George's County, § 13.01 (Development rights and responsibilities agreements);
  - ~~[(16)]~~ **(17)** For Baltimore County only, § 14.02; and
  - ~~[(17)]~~ **(18)** For Howard County only, § 14.06.1.
- (c) This section supersedes any inconsistent provision of Article 28 of the Code.
- 2.13.
- (a) Except as provided in subsection (b) of this section, §§ 3.01 through 8.15 of this article do not apply in Baltimore City.
  - (b) The following sections of this article apply to Baltimore City:

- (1) § 1.00(j) (Definition of “sensitive areas”);
- (2) § 1.01 (Visions);
- (3) § 1.02 (Consistency with **COMPREHENSIVE** plans);
- (4) § ~~[1.03]~~ **1.04** (Charter county – Comprehensive plans);
- (5) § 3.02(h) (Planning Commission – Education);
- (6) § 3.09 (Annual report – Preparation and filing);
- (7) § 3.10 (Annual report – Smart Growth goals, measures, and indicators);
- (8) § 4.01(b)(2) (Regulation of bicycle parking);
- (9) **§ 4.04(C) (EXCEPTIONS RELATED TO THE MARYLAND ACCESSIBILITY CODE);**
- (10) § 4.07(i) (Board of Appeals – Education);
- ~~[(10)]~~ **(11)** § 5.03(d) (Easements for burial sites);
- ~~[(11)]~~ **(12)** § 7.02 (Civil penalty for zoning violation);
- ~~[(12)]~~ **(13)** § 10.01 (Adequate Public Facilities Ordinances);
- ~~[(13)]~~ **(14)** § 11.01 (Transfer of Development Rights);
- ~~[(14)]~~ **(15)** § 12.01 (Inclusionary Zoning); and
- ~~[(15)]~~ **(16)** § 13.01 (Development Rights and Responsibilities Agreements).

4.04.

(c) A local legislative body shall provide for exceptions to local zoning ordinances when necessary to bring an existing parking lot into compliance with the **REQUIREMENTS FOR PARKING SPACES FOR INDIVIDUALS WITH DISABILITIES AND THE** van-accessible parking ratio requirement of the Maryland Accessibility Code adopted under § 12–202 of the Public Safety Article.

#### Article – Public Safety

12-202.

(a) In this section, "Department" means the Department of Housing and Community Development.

(b) (1) The Department shall adopt by regulation a State building code to make buildings and facilities accessible and usable by individuals with physical disabilities to the extent feasible.

(2) The regulations shall be developed in conjunction with:

(i) the Governor's Committee on Employment of People with Disabilities;

(ii) the Maryland Rehabilitation Association; and

(iii) the Maryland Society of Architects.

(c) The Maryland Accessibility Code shall be enforced by local jurisdictions or any other governmental units with authority over buildings or facilities.

### **Article – Transportation**

21-1006.

(a) (1) Each parking lot that is constructed or altered after October 1, 1996 shall conform with the requirements of the Maryland Accessibility Code adopted under § 12-202 of the Public Safety Article.

(2) **(I)** As of October 1, 2010, each parking lot in the State shall conform with the requirements of the Maryland Accessibility Code adopted under § 12-202 of the Public Safety Article.

**(II) A PERSON MAY COMPLY WITH THIS PARAGRAPH BY RESTRIPIING THE PARKING LOT TO PROVIDE THE REQUIRED NUMBER OF PARKING SPACES FOR INDIVIDUALS WITH DISABILITIES, INCLUDING PARKING SPACES THAT ARE DISABLED VAN ACCESSIBLE.**

**(III) IF RESTRIPIING A PARKING LOT TO COMPLY WITH THIS SUBSECTION REDUCES THE TOTAL NUMBER OF SPACES TO BELOW THE NUMBER REQUIRED BY LOCAL LAW, THE LOCAL JURISDICTION SHALL GRANT THE PROPERTY OWNER AN EXCEPTION TO THE RELEVANT LOCAL ZONING ORDINANCE.**

(b) A person may not park a motor vehicle in a space designated for the use of individuals with disabilities unless:

(1) The vehicle bears a special registration plate, a removable windshield placard, or a temporary removable windshield placard issued by the Administration under § 13–616, § 13–616.1, or § 13–616.2 of this article or similarly by another state, the District of Columbia, or another country; and

(2) The person is authorized to use the privileges conferred by the special registration plate, removable windshield placard, or temporary placard under § 13–616, § 13–616.1, or § 13–616.2 of this article, or under the laws of another state, the District of Columbia, or another country.

(c) Any restriping or repaving of a parking lot shall be considered an alteration under the Maryland Accessibility Code adopted under § 12–202 of the Public Safety Article.

SECTION 2. AND BE IT FURTHER ENACTED, That, for development approved before the effective date of this Act, the exception process required under Article 66B, § 4.04(c) of the Code, as amended by this Act, shall be used for compliance with Maryland Accessibility Code requirements governing disabled parking instead of any other relevant special exception or variance process required by other provisions of State or local law.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 365

**(Senate Bill 947)**

AN ACT concerning

### **Allegany County – Property Tax Credit – WMHS Braddock Hospital Facility**

FOR the purpose of authorizing the governing body of Allegany County or of a municipal corporation in Allegany County to grant, by law, a property tax credit against the county or municipal corporation property tax imposed on certain property *formerly designated and operated as a certain hospital*; providing for a certain limitation on the tax credit; authorizing the governing body of Allegany County or of a municipal corporation in Allegany County to provide, by law, for ~~certain provisions relating to the property tax~~ *the amount of the credit, eligibility criteria for the credit, regulations and procedures, and any other provision necessary to carry out the credit*; providing for the application of this

Act; and generally relating to property tax credits for certain property *formerly designated and operated as a certain hospital* in Allegany County.

BY adding to

Article – Tax – Property

Section 9–302(l)

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

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

**Article – Tax – Property**

9–302.

**(L) (1) THE GOVERNING BODY OF ALLEGANY COUNTY OR OF A MUNICIPAL CORPORATION IN ALLEGANY COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT AGAINST THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX IMPOSED ON ANY PROPERTY THAT:**

**(I) IS OWNED BY WESTERN MARYLAND HEALTH SYSTEM CORPORATION;**

**(II) WAS FORMERLY DESIGNATED AND OPERATED AS WESTERN MARYLAND HEALTH SYSTEM BRADDOCK HOSPITAL; AND**

**(III) IS VACANT AS A RESULT OF HOSPITAL CONSOLIDATION AND RELOCATION APPROVED BY THE MARYLAND HEALTH CARE COMMISSION.**

**(2) TO ENCOURAGE THE LOCATION AND DEVELOPMENT OF BUSINESS OPERATIONS AND EXPANSION OF THE EMPLOYMENT BASE IN ALLEGANY COUNTY, THE GOVERNING BODY OF ALLEGANY COUNTY OR OF A MUNICIPAL CORPORATION IN ALLEGANY COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT AGAINST THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX IMPOSED ON ANY PROPERTY THAT:**

**(I) WAS FORMERLY OWNED BY WESTERN MARYLAND HEALTH SYSTEM CORPORATION;**

**(II) WAS FORMERLY DESIGNATED AND OPERATED AS WESTERN MARYLAND HEALTH SYSTEM BRADDOCK HOSPITAL;**

(III) WAS FORMERLY VACANT AS A RESULT OF HOSPITAL CONSOLIDATION AND RELOCATION APPROVED BY THE MARYLAND HEALTH CARE COMMISSION; AND

(IV) IS OWNED, MANAGED, OR OPERATED BY AN ORGANIZATION DESCRIBED IN § 501(C)(3) OR § 501(C)(6) OF THE INTERNAL REVENUE CODE.

(3) IN AUTHORIZING A CREDIT UNDER PARAGRAPH (1) OR (2) OF THIS SUBSECTION, THE GOVERNING BODY OF THE COUNTY OR MUNICIPAL CORPORATION MAY PROVIDE, BY LAW, FOR:

(I) THE AMOUNT OF THE CREDIT; ~~AND~~

(II) ELIGIBILITY CRITERIA FOR THE CREDIT;

(III) REGULATIONS AND PROCEDURES FOR THE APPLICATION AND UNIFORM PROCESSING OF REQUESTS FOR THE CREDIT; AND

~~(H)~~ (IV) ANY OTHER PROVISION NECESSARY TO ADMINISTER THE CREDIT.

(4) A TAX CREDIT GRANTED UNDER THIS SUBSECTION MAY NOT BE GRANTED FOR MORE THAN 10 YEARS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010, and shall be applicable to all taxable years beginning after June 30, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 366

(Senate Bill 978)

AN ACT concerning

### Talbot County – Deer Hunting on Private Property – Sundays

FOR the purpose of authorizing a person in Talbot County to hunt for deer on private property with a bow and arrow on certain Sundays during certain months; and generally relating to deer hunting in Talbot County.

BY repealing and reenacting, with amendments,  
Article – Natural Resources  
Section 10–410(a)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 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, **TALBOT**, 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, 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, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 367

(Senate Bill 987)

AN ACT concerning

### Natural Resources – Conservation Law Enforcement Act of 2010

FOR the purpose of authorizing the Department of Natural Resources to include certain recommendations in certain reports and to submit certain reports to the Governor and the General Assembly; stating certain findings of the General Assembly; establishing certain responsibilities of the Natural Resources Police Force; ~~authorizing rather than requiring the Department to audit books of certain individuals who pack or deal in fish resources; authorizing the Department to audit the books of certain individuals who sell fish resources at retail; providing that a certain audit shall be conducted for law enforcement purposes; authorizing a representative of the Department to inspect a certain~~

~~area during a certain inspection; providing a certain penalty for a person who fails to produce records or permit an inspection under certain circumstances; establishing that a certain provision of law prohibiting the use of certain information in a certain manner does not prohibit the use of certain information for law enforcement purposes; providing a certain penalty for a person who unlawfully takes oysters in violation of certain bushel limits; providing that a person who violates certain provisions of law may be required as a condition of probation or continued licensure to have an electronic monitoring system on board the person's vessel to allow monitoring by the Department; authorizing the Department to adopt certain regulations; establishing and providing for a certain commemorative lifetime hunting license; authorizing the Department to file a complaint for forfeiture of property unlawfully used to violate certain provisions of law; providing for a forfeiture conducted under this Act; encouraging the Maryland Public Broadcasting Commission to help promote a certain public recognition and appreciation of the role of the Natural Resources Police Force; encouraging the Department to conduct a certain study to identify certain additional changes to existing law and present certain findings and recommendations to certain committees by a certain date; requiring the Department to conduct a certain study of certain funding policies and present certain findings and recommendations by a certain date; providing that the General Assembly encourages the Governor to increase public awareness and reliance on the Natural Resources Police Force reserve officers; providing that the General Assembly encourages the National Fish and Wildlife Foundation to distribute to the Department, for the purposes of conservation law enforcement, any funds the foundation receives from the United States Department of Justice as fines or penalties resulting from federal convictions of game violations in the State; defining a certain term; and generally relating to conservation law enforcement.~~

BY adding to

Article – Natural Resources  
Section 1-107 and 1-201  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources  
Section 1-201, and 1-204, ~~4-206, 4-1201(f), and 4-1207~~  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

BY adding to

Article – Natural Resources  
Section 10-301.3 and ~~10-1106.1~~  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 Supplement)

## Preamble

WHEREAS, Maryland envisions a 21st century Chesapeake Bay, where indigenous fish and wildlife flourish because of a healthy watershed realized through citizen support; and

WHEREAS, The public trust doctrine recognizes that government has an affirmative duty to protect, manage, and conserve fish and wildlife; and

WHEREAS, Prevailing budget constraints resulting from a lingering economic recession have compromised Maryland's ability to, among other things, offset the costs of the enforcement of State conservation laws consistent with the State's 21st century vision and the public trust doctrine; and

WHEREAS, The intent of this Act is to recognize Maryland's commitment to the sustainability of its finite natural resources, with due regard to the dictates of fiscal practicality, by making conservation law enforcement more effective and efficient through the provision of additional investigative and funding tools, including strengthened deterrence of natural resources-related violations; now, therefore,

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

**Article – Natural Resources**

**1–107.**

**IN ANY REPORT ISSUED UNDER THIS TITLE, THE DEPARTMENT MAY:**

**(1) INCLUDE RECOMMENDATIONS FOR STATUTORY AND BUDGETARY PROPOSALS TO:**

**(i) PROMOTE PUBLIC AWARENESS OF THE BENEFITS OF CONSERVING FISHERIES AND WILDLIFE IN THE STATE; AND**

**(ii) REDUCE THE INCIDENCE OF VIOLATIONS OF STATE CONSERVATION LAWS; AND**

**(2) SUBMIT THE REPORT TO THE GOVERNOR AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.**

**1–201.**

**THE GENERAL ASSEMBLY FINDS THAT:**

(1) THE CONSUMPTIVE NATURE OF AN EXPANDING POPULATION POSES A CLEAR AND PRESENT THREAT TO THE LONG-TERM VIABILITY OF THE FISHERIES AND WILDLIFE OF THE STATE;

(2) AN INCREASED UNDERSTANDING BY CITIZENS OF THE INTRINSIC VALUE OF THE FISHERIES AND WILDLIFE OF THE STATE WILL HELP TO ENSURE THE PERPETUATION OF THESE COVETED NATURAL RESOURCES FOR THE BENEFIT OF FUTURE GENERATIONS;

(3) THE RESPONSIBILITY FOR PROTECTING THE NATURAL RESOURCES OF THE STATE IS VESTED IN THE NATURAL RESOURCES POLICE FORCE WITHIN THE DEPARTMENT;

(4) BUDGETARY REDUCTIONS ATTRIBUTABLE TO A LINGERING ECONOMIC RECESSION HAVE REDUCED THE NUMBER OF CONSERVATION LAW ENFORCEMENT PERSONNEL TO THE MEASURABLE DETRIMENT OF THE NATURAL RESOURCES OF THE STATE;

(5) ENTRUSTING THE ENFORCEMENT OF STATE CONSERVATION LAWS TO THE NATURAL RESOURCES POLICE FORCE, COUPLED WITH INCREASING THE HOMELAND SECURITY RESPONSIBILITIES OF THE NATURAL RESOURCES POLICE FORCE, REQUIRES AN INVESTMENT THAT IS COMMENSURATE WITH THE LEVEL OF PROTECTION THE PUBLIC CONSIDERS APPROPRIATE;

(6) A DIMINISHING ENFORCEMENT PRESENCE ON LAND AND ON THE WATERWAYS CORRELATES TO AN INCREASING NUMBER OF VIOLATIONS OF STATE CONSERVATION LAWS AND AN EROSION OF THE PROTECTIONS AFFORDED TO CITIZENS BY THE PUBLIC TRUST DOCTRINE, WHICH SETS FORTH THE RESPONSIBILITY OF THE GOVERNMENT TO ADMINISTER, PROTECT, MANAGE, AND CONSERVE FISH AND WILDLIFE; AND

(7) THE PREVALENCE OF VIOLATIONS OF STATE CONSERVATION LAWS PRESENTS A SIGNIFICANT PROBLEM THAT WARRANTS AN ENHANCED INVESTMENT IN CONSERVATION LAW ENFORCEMENT BY:

(I) INCREASING THE PRESENCE OF NATURAL RESOURCES POLICE FORCE PERSONNEL ON LAND AND ON THE WATERWAYS THROUGH THE USE OF PRESENT AND FUTURE REVENUE SOURCES; AND

(II) ENSURING THAT THE NATURAL RESOURCES POLICE FORCE IS PROPERLY EQUIPPED WITH THE EQUIPMENT, VEHICLES, AND BOATS NECESSARY TO COMPLY WITH ITS STATUTORY MANDATE.

[1–201.] 1–201.1.

(A) There is a Natural Resources Police Force in the Department **THAT SERVES AS A PUBLIC SAFETY AGENCY WITH STATEWIDE AUTHORITY TO ENFORCE CONSERVATION, BOATING, AND CRIMINAL LAWS.**

(B) **THE RESPONSIBILITIES OF THE NATURAL RESOURCES POLICE FORCE INCLUDE:**

(1) **PROVIDING MARITIME AND RURAL SEARCH AND RESCUE SERVICES;**

(2) **PROVIDING PUBLIC EDUCATION IN HUNTING, BOATING, AND WATER SAFETY;**

(3) **PROVIDING PRIMARY LAW ENFORCEMENT SERVICES FOR STATE PARKS, STATE FORESTS, WILDLIFE MANAGEMENT AREAS, AND PUBLIC LANDS OWNED AND MANAGED BY THE DEPARTMENT; AND**

(4) **SERVING AS THE LEAD AGENCY FOR MARITIME HOMELAND SECURITY ON STATE WATERWAYS.**

1–204.

(a) In addition to any other powers conferred by this title, the Secretary and every Natural Resources police officer shall have all the powers conferred upon police officers of the State. These powers may be exercised anywhere within the State. The Natural Resources Police Force specifically is charged with enforcing the natural resource **AND CONSERVATION** laws of the State.

(b) Every Natural Resources police officer appointed under § 1–203 of this subtitle shall perform duties the Secretary designates.

(c) Any law enforcement employee of the Department of Natural Resources who works overtime for any reason, whether or not the employee receives monetary payment for that overtime work, shall be considered to be employed by this State during those hours for purposes of all other employee entitlements.

~~4–206.~~

~~(a) (1) The Department [shall] **MAY** audit the books of any person who packs or deals in fish resources **OR SELLS FISH RESOURCES AT RETAIL** within the jurisdiction of the Department including [anyone].~~

~~(I) ANY PERSON who catches and ships directly to market;~~  
~~AND~~

~~(H) ANY PERSON WHO OWNS OR OPERATES A RETAIL MARKET, RESTAURANT, OR OTHER ESTABLISHMENT WHERE FINFISH OR SHELLFISH ARE SOLD OR SERVED TO ULTIMATE CONSUMERS AND NOT FOR RESALE.~~

~~(2) [The] A Department audit UNDER THIS SECTION shall be conducted to determine the quantity of resources caught and any other data needed for reporting and accounting to State officials AND FOR LAW ENFORCEMENT PURPOSES.~~

~~(b) (1) Every person engaged in the business of packing, RETAILING, or dealing in any fish resource within the Department's jurisdiction shall keep accurate books, statements, and accounts showing every detail of the business.~~

~~(2) Every book, statement, and account shall be open for the Department to inspect at reasonable hours.~~

~~(3) DURING THE COURSE OF AN INSPECTION, A REPRESENTATIVE OF THE DEPARTMENT MAY INSPECT ANY AREA OF THE PREMISES WHERE FISH RESOURCES SUBJECT TO THE RECORD KEEPING REQUIREMENTS OF THIS SECTION MAY BE STORED.~~

~~(4) ANY PERSON WHO FAILS TO PRODUCE RECORDS OR ALLOW AN INSPECTION AS REQUIRED BY THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO PUNISHMENT AS PROVIDED IN § 4-1201 OF THIS SUBTITLE.~~

~~(C) Every person engaged in the business of packing, RETAILING, or dealing in any fish resource within the Department's jurisdiction shall make any report the Department requires on forms the Department prescribes.~~

~~[(e)] (D) Every person the Department licenses to catch the fish resource shall make any report the Department requires on forms the Department provides.~~

~~[(d)] (E) (1) An officer or employee of any department or unit of the Executive Branch of State government may not divulge or use in any manner information contained in any report submitted pursuant to the provisions of this section that would reveal the income of any person submitting the report.~~

~~(2) This [section] SUBSECTION does not prohibit [the];~~

~~(I) THE publication of statistics classified to prevent the identification of particular reports and items of [them or prohibit] THE REPORTS;~~

~~(II) THE inspection of reports and records by any official or employee of the Executive Branch having a proper interest in them; OR~~

~~(III) THE USE OF INFORMATION GATHERED IN ACCORDANCE WITH THIS SECTION FOR LAW ENFORCEMENT PURPOSES.~~

~~4-1201.~~

~~(f) (1) [In addition to any other applicable penalty set forth in this title, a] A PERSON WHO UNLAWFULLY TAKES OYSTERS IN VIOLATION OF THE BUSHEL LIMITS ESTABLISHED BY LAW IS SUBJECT TO A FINE NOT EXCEEDING \$1,500 PER BUSHEL.~~

~~(2) A person who unlawfully takes oysters from a leased oyster bottom, an oyster sanctuary, an oyster reserve, or an area closed to shellfish harvest by the Department of the Environment, when the area is designated and marked by buoys or other signage or the person knew or should have known that taking the oysters from the area was unlawful, is subject to a fine not exceeding \$3,000.~~

~~(3) THE PENALTIES PROVIDED IN THIS SUBSECTION ARE IN ADDITION TO ANY OTHER PENALTY PROVIDED BY THIS TITLE.~~

~~4-1207.~~

~~(a) In addition to any other penalty or fine provided in this title, any person who is convicted of violating any provision of this title or any regulation adopted under the authority of this title may [have]:~~

~~(1) HAVE the license under which the person operated in the commission of THE violation suspended or revoked by the court; AND~~

~~(2) FOR COMMERCIAL CRABBING, FISHING, OR OYSTER HARVESTING IN PROHIBITED AREAS OR DURING PROHIBITED HOURS OR DAYS, BE REQUIRED BY THE COURT AS A CONDITION OF PROBATION, OR BY THE DEPARTMENT AS A CONDITION OF CONTINUED LICENSURE, TO HAVE AN ELECTRONIC MONITORING SYSTEM ON BOARD THE PERSON'S COMMERCIAL VESSEL TO ALLOW THE DEPARTMENT TO CONTINUOUSLY MONITOR THE VESSEL'S LOCATION.~~

~~(b) (1) A court may suspend for not more than 1 year a fishing license of a person who is convicted of violating § 6-402 of the Criminal Law Article while carrying a fishing rod or net for the purpose of fishing.~~

~~(2) When a person not holding a fishing license is convicted of violating § 6-402 of the Criminal Law Article while carrying a fishing rod or net for the purpose of fishing, the court may order that the person not obtain a fishing license for a period of not more than 1 year.~~

~~(C) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBTITLE.~~

~~10-301.3.~~

(A) THERE IS A COMMEMORATIVE LIFETIME HUNTING LICENSE.

(B) THE DEPARTMENT SHALL ISSUE A LIMITED NUMBER OF COMMEMORATIVE LIFETIME HUNTING LICENSES TO CERTAIN NONPROFIT ORGANIZATIONS, CONSISTENT WITH ELIGIBILITY CRITERIA DEVELOPED BY THE DEPARTMENT, UNTIL DECEMBER 31, 2011.

(C) NONPROFIT ORGANIZATIONS ISSUED HUNTING LICENSES UNDER THIS SECTION MAY, IN COOPERATION WITH THE DEPARTMENT, MARKET AND SELL THE HUNTING LICENSES.

(D) ALL PROCEEDS FROM SALES OF HUNTING LICENSES UNDER THIS SECTION SHALL BE USED BY THE DEPARTMENT TO FUND CONSERVATION LAW ENFORCEMENT BY THE NATURAL RESOURCES POLICE FORCE.

(E) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.

~~10-1106.1.~~

~~(A) IN THIS SECTION, "PROPERTY" INCLUDES:~~

~~(1) FIREARMS, CROSSBOWS, KNIVES, AND ANY OTHER WEAPONS;~~

~~(2) AMMUNITION;~~

~~(3) BINOCULARS, SCOPES, RANGEFINDERS, AND ANY OTHER OPTICAL DEVICES;~~

~~(4) TREE STANDS AND BLINDS;~~

~~(5) CAMERAS, SPOTLIGHTS, FLASHLIGHTS, LASERS, AND ANY OTHER ELECTRONIC EQUIPMENT;~~

~~(6) VEHICLES;~~

~~(7) VESSELS; AND~~

~~(8) ANY OTHER EQUIPMENT USED TO AID IN A VIOLATION OF NATURAL RESOURCES LAW.~~

~~(B) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, THE DEPARTMENT MAY FILE A COMPLAINT FOR FORFEITURE OF PROPERTY UNLAWFULLY USED TO VIOLATE A PROVISION OF THIS TITLE REGULATING THE PROTECTION OF WILDLIFE.~~

~~(C) A FORFEITURE OF PROPERTY UNDER THIS SECTION SHALL BE IN ACCORDANCE WITH THE PROCEDURES PROVIDED IN §§ 12-304 THROUGH 12-308 OF THE CRIMINAL PROCEDURE ARTICLE.~~

~~(D) ANY PROPERTY FORFEITED UNDER THIS SECTION BECOMES THE PROPERTY OF THE DEPARTMENT FOR DISPOSITION AT THE DISCRETION OF THE DEPARTMENT AS PROVIDED IN § 10-1106 OF THIS SUBTITLE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly encourages the Maryland Public Broadcasting Commission, under the authority provided in § 24-205 of the Education Article, to help promote public recognition of and appreciation for the role of the Natural Resources Police Force in enforcing the conservation laws of the State.

SECTION 3. AND BE IT FURTHER ENACTED, That the General Assembly encourages the Department of Natural Resources to conduct a study to identify additional changes to existing law that may enable the Natural Resources Police Force to become more effective and efficient, including a study of the benefits of requiring the use of technology for the prevention and detection of violations. Any findings and recommendations shall be presented in a report to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee by December 1, 2010, in accordance with § 2-1246 of the State Government Article.

SECTION 4. AND BE IT FURTHER ENACTED, That the Department of Natural Resources, in cooperation with sportsmen's groups, and any other entities deemed appropriate by the Department, shall study funding policies that may bolster the ranks of the Natural Resources Police Force in order to help meet 21st century demands on conservation law enforcement, including policies by which revenues realized under this Act may be used to leverage additional revenues from the public and private sectors. On or before October 1, 2011, the Department shall report its findings and recommendations, in accordance with § 2-1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee.

SECTION 5. AND BE IT FURTHER ENACTED, That the General Assembly encourages the Governor to increase public awareness of and reliance on the Natural Resources Police Force reserve officers, who complement conservation law enforcement-related responsibilities under the direction of the Superintendent of the Natural Resources Police Force.

SECTION 6. AND BE IT FURTHER ENACTED, That the General Assembly encourages the National Fish and Wildlife Foundation to distribute to the Department of Natural Resources, for the purposes of conservation law enforcement, any funds the foundation receives from the United States Department of Justice as fines or penalties resulting from federal convictions of game violations in the State.

SECTION 7. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 368

(Senate Bill 990)

AN ACT concerning

### **Courts and Judicial Proceedings – Strategic Lawsuits Against Public Participation**

FOR the purpose of ~~altering the remedies available to a defendant in an alleged strategic lawsuit against public participation (SLAPP suit); establishing certain burdens of proof and procedures in an alleged SLAPP suit; requiring a court to consider certain evidence in ruling on a motion to dismiss an alleged SLAPP suit; authorizing the Office of the Attorney General or a government body to intervene to defend or support a certain party in an alleged SLAPP suit; requiring a court to stay any discovery and pending hearings or motions in an alleged SLAPP suit on the filing of a motion to dismiss and until the court rules on the motion; requiring a court to award certain attorney's fees, costs, and other relief under certain circumstances; modifying a defined term; modifying a certain definition of a strategic lawsuit against public participation (SLAPP suit); providing that a defendant in a SLAPP suit is not civilly liable under certain circumstances; providing for the application of this Act; and generally relating to SLAPP suits.~~

BY repealing and reenacting, without amendments,

Article – Courts and Judicial Proceedings

Section 5-807(a)

Annotated Code of Maryland

(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section ~~5–807~~ 5–807(b) and (c)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2009 Supplement)

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

**Article – Courts and Judicial Proceedings**

5–807.

(a) In this section, “SLAPP suit” means a strategic lawsuit against public participation.

(b) A lawsuit is a SLAPP suit if it is:

(1) Brought ~~in bad faith~~ against a party who has communicated with a federal, State, or local government body or the public at large to report on, comment on, rule on, challenge, oppose, or in any other way exercise rights under the First Amendment of the U.S. Constitution or Article 10, Article 13, or Article 40 of the Maryland Declaration of Rights regarding any matter within the authority of a government body **OR ANY ISSUE OF PUBLIC CONCERN; AND**

(2) Materially related to the defendant’s communication~~;~~ and

(3) Intended to inhibit **OR INHIBITS** the exercise of rights under the First Amendment of the U.S. Constitution or Article 10, Article 13, or Article 40 of the Maryland Declaration of Rights~~;~~.

(c) A defendant in a SLAPP suit is not civilly liable for communicating with a federal, State, or local government body or the public at large, if the defendant, without constitutional malice, reports on, comments on, rules on, challenges, opposes, or in any other way exercises rights under the First Amendment of the U.S. Constitution or Article 10, Article 13, or Article 40 of the Maryland Declaration of Rights regarding any matter within the authority of a government body **OR ANY ISSUE OF PUBLIC CONCERN.**

~~(d) (1) A defendant in an alleged SLAPP suit may move to:~~

~~(1) Dismiss] DISMISS the alleged SLAPP suit, in which case the court shall hold a hearing on the motion to dismiss as soon as practicable; or~~

~~(2) Stay all court proceedings until the matter about which the defendant communicated to the government body or the public at large is resolved.~~

~~(2) (i) A PARTY BRINGING A MOTION TO DISMISS UNDER THIS SUBSECTION SHALL BEAR THE INITIAL BURDEN OF MAKING A PRIMA FACIE SHOWING THAT THE LAWSUIT IS A SLAPP SUIT.~~

~~(ii) IF THE MOVING PARTY MEETS THE INITIAL BURDEN DESCRIBED IN SUBPARAGRAPH (i) OF THIS PARAGRAPH, THE RESPONDING PARTY SHALL BEAR THE BURDEN OF ESTABLISHING A PROBABILITY OF PREVAILING IN THE LAWSUIT BY PRESENTING SUBSTANTIAL EVIDENCE TO SUPPORT A PRIMA FACIE CASE.~~

~~(iii) IF THE RESPONDING PARTY MEETS THE BURDEN DESCRIBED IN SUBPARAGRAPH (ii) OF THIS PARAGRAPH, THE COURT SHALL DENY THE MOTION TO DISMISS.~~

~~(3) IN RULING ON A MOTION TO DISMISS UNDER THIS SUBSECTION, THE COURT SHALL CONSIDER PLEADINGS, SUPPORTING AFFIDAVITS, AND OPPOSING AFFIDAVITS THAT STATE THE FACTS ON WHICH THE LIABILITY OR DEFENSE IS BASED.~~

~~(4) IF THE COURT FINDS THAT THE RESPONDING PARTY HAS ESTABLISHED A PROBABILITY OF PREVAILING IN THE LAWSUIT:~~

~~(i) THE FACT THAT THE FINDING HAS BEEN MADE AND THE SUBSTANCE OF THE FINDING IS NOT ADMISSIBLE IN EVIDENCE AT ANY LATER STAGE IN THE LAWSUIT; AND~~

~~(ii) THE FINDING MAY NOT AFFECT THE BURDEN OF PROOF APPLIED IN THE LAWSUIT.~~

~~(5) THE OFFICE OF THE ATTORNEY GENERAL, OR ANY GOVERNMENT BODY TO WHICH THE MOVING PARTY'S COMMUNICATION WAS DIRECTED, MAY INTERVENE TO DEFEND OR SUPPORT THE MOVING PARTY.~~

~~(E) (1) THE COURT SHALL STAY DISCOVERY AND ANY PENDING HEARINGS OR MOTIONS IN THE LAWSUIT ON THE FILING OF A MOTION TO DISMISS UNDER SUBSECTION (D) OF THIS SECTION.~~

~~(2) A STAY UNDER THIS SUBSECTION SHALL REMAIN IN EFFECT UNTIL THE COURT RULES ON A MOTION TO DISMISS UNDER SUBSECTION (D) OF THIS SECTION.~~

~~(3) NOTWITHSTANDING A STAY ORDERED UNDER THIS SUBSECTION, THE COURT, ON MOTION AND FOR GOOD CAUSE SHOWN, MAY ORDER DISCOVERY OR OTHER HEARINGS OR MOTIONS TO BE CONDUCTED.~~

~~(F) (1) THE COURT SHALL AWARD A MOVING PARTY WHO PREVAILS ON A MOTION TO DISMISS UNDER SUBSECTION (D) OF THIS SECTION, WITHOUT REGARD TO ANY LIMITS UNDER STATE LAW:~~

~~(I) LITIGATION COSTS AND REASONABLE ATTORNEY'S FEES IN CONNECTION WITH THE MOTION TO DISMISS UNDER SUBSECTION (D) OF THIS SECTION; AND~~

~~(H) ANY ADDITIONAL RELIEF, INCLUDING SANCTIONS ON THE RESPONDING PARTY AND ITS ATTORNEYS, AS THE COURT FINDS NECESSARY TO DETER REPETITION OF THE CONDUCT BY OTHERS SIMILARLY SITUATED.~~

~~(2) IF THE COURT FINDS A MOTION TO DISMISS UNDER SUBSECTION (D) OF THIS SECTION IS FRIVOLOUS OR SOLELY INTENDED TO CAUSE UNNECESSARY DELAY, THE COURT SHALL AWARD REASONABLE ATTORNEY'S FEES AND LITIGATION COSTS TO THE RESPONDING PARTY.~~

~~[(e)] (G) This section:~~

~~(1) Is applicable to SLAPP suits notwithstanding any other law or rule; and~~

~~(2) Does not diminish any equitable or legal right or remedy otherwise available to a defendant in a SLAPP suit.~~

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 cause of action arising before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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Chapter 369

(House Bill 1250)

AN ACT concerning

**Courts and Judicial Proceedings – Strategic Lawsuits Against Public Participation**

FOR the purpose of ~~altering the remedies available to a defendant in an alleged strategic lawsuit against public participation (SLAPP suit); establishing certain burdens of proof and procedures in an alleged SLAPP suit; requiring a court to consider certain evidence in ruling on a motion to dismiss an alleged SLAPP suit; authorizing the Office of the Attorney General or a government body to intervene to defend or support a certain party in an alleged SLAPP suit; requiring a court to stay any discovery and pending hearings or motions in an alleged SLAPP suit on the filing of a motion to dismiss and until the court rules on the motion; requiring a court to award certain attorney's fees, costs, and other relief under certain circumstances; modifying a defined term; modifying a certain definition of a strategic lawsuit against public participation (SLAPP suit); providing that a defendant in a SLAPP suit is not civilly liable under certain circumstances; providing for the application of this Act; and generally relating to SLAPP suits.~~

BY repealing and reenacting, without amendments,

Article – Courts and Judicial Proceedings

Section 5–807(a)

Annotated Code of Maryland

(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Courts and Judicial Proceedings

Section ~~5–807~~ 5–807(b) and (c)

Annotated Code of Maryland

(2006 Replacement Volume and 2009 Supplement)

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

**Article – Courts and Judicial Proceedings**

5–807.

(a) In this section, “SLAPP suit” means a strategic lawsuit against public participation.

(b) A lawsuit is a SLAPP suit if it is:

(1) Brought ~~in bad faith~~ against a party who has communicated with a federal, State, or local government body or the public at large to report on, comment

on, rule on, challenge, oppose, or in any other way exercise rights under the First Amendment of the U.S. Constitution or Article 10, Article 13, or Article 40 of the Maryland Declaration of Rights regarding any matter within the authority of a government body **OR ANY ISSUE OF PUBLIC CONCERN**; ~~AND~~

(2) Materially related to the defendant's communication~~];~~ and

(3) Intended to inhibit **OR INHIBITS** the exercise of rights under the First Amendment of the U.S. Constitution or Article 10, Article 13, or Article 40 of the Maryland Declaration of Rights~~].~~

(c) A defendant in a SLAPP suit is not civilly liable for communicating with a federal, State, or local government body or the public at large, if the defendant, without constitutional malice, reports on, comments on, rules on, challenges, opposes, or in any other way exercises rights under the First Amendment of the U.S. Constitution or Article 10, Article 13, or Article 40 of the Maryland Declaration of Rights regarding any matter within the authority of a government body **OR ANY ISSUE OF PUBLIC CONCERN**.

~~(d) (1) A defendant in an alleged SLAPP suit may move to~~]:~~~~

~~(1) Dismiss~~]~~ DISMISS the alleged SLAPP suit, in which case the court shall hold a hearing on the motion to dismiss as soon as practicable~~];~~ or~~

~~(2) Stay all court proceedings until the matter about which the defendant communicated to the government body or the public at large is resolved~~].~~~~

~~(2) (i) A PARTY BRINGING A MOTION TO DISMISS UNDER THIS SUBSECTION SHALL BEAR THE INITIAL BURDEN OF MAKING A PRIMA FACIE SHOWING THAT THE LAWSUIT IS A SLAPP SUIT.~~

~~(ii) IF THE MOVING PARTY MEETS THE INITIAL BURDEN DESCRIBED IN SUBPARAGRAPH (i) OF THIS PARAGRAPH, THE RESPONDING PARTY SHALL BEAR THE BURDEN OF ESTABLISHING A PROBABILITY OF PREVAILING IN THE LAWSUIT BY PRESENTING SUBSTANTIAL EVIDENCE TO SUPPORT A PRIMA FACIE CASE.~~

~~(iii) IF THE RESPONDING PARTY MEETS THE BURDEN DESCRIBED IN SUBPARAGRAPH (ii) OF THIS PARAGRAPH, THE COURT SHALL DENY THE MOTION TO DISMISS.~~

~~(3) IN RULING ON A MOTION TO DISMISS UNDER THIS SUBSECTION, THE COURT SHALL CONSIDER PLEADINGS, SUPPORTING AFFIDAVITS, AND OPPOSING AFFIDAVITS THAT STATE THE FACTS ON WHICH THE LIABILITY OR DEFENSE IS BASED.~~

~~(4) IF THE COURT FINDS THAT THE RESPONDING PARTY HAS ESTABLISHED A PROBABILITY OF PREVAILING IN THE LAWSUIT:~~

~~(i) THE FACT THAT THE FINDING HAS BEEN MADE AND THE SUBSTANCE OF THE FINDING IS NOT ADMISSIBLE IN EVIDENCE AT ANY LATER STAGE IN THE LAWSUIT; AND~~

~~(ii) THE FINDING MAY NOT AFFECT THE BURDEN OF PROOF APPLIED IN THE LAWSUIT.~~

~~(5) THE OFFICE OF THE ATTORNEY GENERAL, OR ANY GOVERNMENT BODY TO WHICH THE MOVING PARTY'S COMMUNICATION WAS DIRECTED, MAY INTERVENE TO DEFEND OR SUPPORT THE MOVING PARTY.~~

~~(E) (1) THE COURT SHALL STAY DISCOVERY AND ANY PENDING HEARINGS OR MOTIONS IN THE LAWSUIT ON THE FILING OF A MOTION TO DISMISS UNDER SUBSECTION (D) OF THIS SECTION.~~

~~(2) A STAY UNDER THIS SUBSECTION SHALL REMAIN IN EFFECT UNTIL THE COURT RULES ON A MOTION TO DISMISS UNDER SUBSECTION (D) OF THIS SECTION.~~

~~(3) NOTWITHSTANDING A STAY ORDERED UNDER THIS SUBSECTION, THE COURT, ON MOTION AND FOR GOOD CAUSE SHOWN, MAY ORDER DISCOVERY OR OTHER HEARINGS OR MOTIONS TO BE CONDUCTED.~~

~~(F) (1) THE COURT SHALL AWARD A MOVING PARTY WHO PREVAILS ON A MOTION TO DISMISS UNDER SUBSECTION (D) OF THIS SECTION, WITHOUT REGARD TO ANY LIMITS UNDER STATE LAW:~~

~~(i) LITIGATION COSTS AND REASONABLE ATTORNEY'S FEES IN CONNECTION WITH THE MOTION TO DISMISS UNDER SUBSECTION (D) OF THIS SECTION; AND~~

~~(ii) ANY ADDITIONAL RELIEF, INCLUDING SANCTIONS ON THE RESPONDING PARTY AND ITS ATTORNEYS, AS THE COURT FINDS NECESSARY TO DETER REPETITION OF THE CONDUCT BY OTHERS SIMILARLY SITUATED.~~

~~(2) IF THE COURT FINDS A MOTION TO DISMISS UNDER SUBSECTION (D) OF THIS SECTION IS FRIVOLOUS OR SOLELY INTENDED TO CAUSE UNNECESSARY DELAY, THE COURT SHALL AWARD REASONABLE ATTORNEY'S FEES AND LITIGATION COSTS TO THE RESPONDING PARTY.~~

~~[(e)] (G) This section:~~

~~(1) Is applicable to SLAPP suits notwithstanding any other law or rule; and~~

~~(2) Does not diminish any equitable or legal right or remedy otherwise available to a defendant in a SLAPP suit.~~

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 cause of action arising before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 370

(Senate Bill 1007)

AN ACT concerning

### **Public Schools – Law Enforcement Officers – Cultural Competency Model Training Program Curriculum**

FOR the purpose of requiring the ~~State Department of Education~~ Maryland Police Training Commission, in consultation with the ~~Maryland Police Training Commission~~ State Department of Education, to develop ~~and implement~~ a cultural competency model training program curriculum for certain law enforcement officers; providing for the contents of the cultural competency model training program curriculum; ~~requiring~~ encouraging certain law enforcement officers ~~employed by a county board of education~~ assigned to public schools to complete the cultural competency model training program curriculum before beginning a certain assignment; and generally relating to a cultural competency model training program curriculum for law enforcement officers in public schools.

BY adding to

Article – Education

Section 7–430

Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

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

**Article – Education**

**7-430.**

(A) ~~THE DEPARTMENT~~ MARYLAND POLICE TRAINING COMMISSION, IN CONSULTATION WITH THE ~~MARYLAND POLICE TRAINING COMMISSION DEPARTMENT~~, SHALL DEVELOP ~~AND IMPLEMENT~~ A CULTURAL COMPETENCY MODEL TRAINING PROGRAM CURRICULUM FOR LAW ENFORCEMENT OFFICERS ~~EMPLOYED BY COUNTY BOARDS FOR ASSIGNMENT IN~~ ASSIGNED TO PUBLIC SCHOOLS.

(B) (1) THE CULTURAL COMPETENCY MODEL TRAINING PROGRAM CURRICULUM SHALL TEACH BEHAVIORS, ATTITUDES, AND POLICIES THAT ENABLE LAW ENFORCEMENT OFFICERS TO UNDERSTAND, COMMUNICATE WITH, AND EFFECTIVELY INTERACT WITH THE INDIVIDUALS, ORGANIZATIONS, AND INSTITUTIONS IN THE COMMUNITY IN WHICH THE PUBLIC SCHOOL TO WHICH A LAW ENFORCEMENT OFFICER IS ASSIGNED IS LOCATED.

(2) THE CULTURAL COMPETENCY MODEL TRAINING PROGRAM CURRICULUM SHALL INCLUDE:

(I) PERSONAL EXPOSURE TO THE INDIVIDUALS, ORGANIZATIONS, AND INSTITUTIONS WITHIN THE ASSIGNED COMMUNITY; AND

(II) KNOWLEDGE OF GOVERNMENT AND COMMUNITY SERVICES AVAILABLE TO HELP PREVENT JUVENILE ARRESTS.

(C) A LAW ENFORCEMENT OFFICER WHO IS ~~EMPLOYED BY A COUNTY BOARD AND IS~~ ASSIGNED TO PATROL A SCHOOL BUILDING OR SCHOOL GROUNDS ~~SHALL~~ IS ENCOURAGED TO COMPLETE THE CULTURAL COMPETENCY MODEL TRAINING PROGRAM CURRICULUM ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION BEFORE THE LAW ENFORCEMENT OFFICER BEGINS AN ASSIGNMENT IN A PUBLIC SCHOOL.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

**Approved by the Governor, May 4, 2010.**

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**Chapter 371****(House Bill 983)**

AN ACT concerning

**Public Schools – Law Enforcement Officers – Cultural Competency Model Training Program Curriculum**

FOR the purpose of requiring the ~~State Department of Education~~ Maryland Police Training Commission, in consultation with the ~~Maryland Police Training Commission~~ State Department of Education, to develop and implement a cultural competency model training program curriculum for certain law enforcement officers; providing for the contents of the cultural competency model training program curriculum; ~~requiring~~ encouraging certain law enforcement officers ~~employed by a county board of education~~ assigned to public schools to complete the cultural competency model training program curriculum before beginning a certain assignment; and generally relating to a cultural competency model training program curriculum for law enforcement officers in public schools.

BY adding to

Article – Education

Section 7–430

Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

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

**Article – Education****7–430.**

**(A) THE ~~DEPARTMENT~~ MARYLAND POLICE TRAINING COMMISSION, IN CONSULTATION WITH THE ~~MARYLAND POLICE TRAINING COMMISSION~~ DEPARTMENT, SHALL DEVELOP AND IMPLEMENT A CULTURAL COMPETENCY MODEL TRAINING ~~PROGRAM~~ CURRICULUM FOR LAW ENFORCEMENT OFFICERS ~~EMPLOYED BY COUNTY BOARDS FOR ASSIGNMENT IN~~ ASSIGNED TO PUBLIC SCHOOLS.**

**(B) (1) THE CULTURAL COMPETENCY MODEL TRAINING PROGRAM CURRICULUM SHALL TEACH BEHAVIORS, ATTITUDES, AND POLICIES THAT ENABLE LAW ENFORCEMENT OFFICERS TO UNDERSTAND, COMMUNICATE WITH, AND EFFECTIVELY INTERACT WITH THE INDIVIDUALS, ORGANIZATIONS, AND**

INSTITUTIONS IN THE COMMUNITY IN WHICH THE PUBLIC SCHOOL TO WHICH A LAW ENFORCEMENT OFFICER IS ASSIGNED IS LOCATED.

(2) THE CULTURAL COMPETENCY MODEL TRAINING PROGRAM CURRICULUM SHALL INCLUDE:

(I) PERSONAL EXPOSURE TO THE INDIVIDUALS, ORGANIZATIONS, AND INSTITUTIONS WITHIN THE ASSIGNED COMMUNITY; AND

(II) KNOWLEDGE OF GOVERNMENT AND COMMUNITY SERVICES AVAILABLE TO HELP PREVENT JUVENILE ARRESTS.

(C) A LAW ENFORCEMENT OFFICER WHO IS ~~EMPLOYED BY A COUNTY BOARD AND IS~~ ASSIGNED TO PATROL A SCHOOL BUILDING OR SCHOOL GROUNDS ~~SHALL~~ IS ENCOURAGED TO COMPLETE THE CULTURAL COMPETENCY MODEL TRAINING PROGRAM CURRICULUM ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION BEFORE THE LAW ENFORCEMENT OFFICER BEGINS AN ASSIGNMENT IN A PUBLIC SCHOOL.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 372

(Senate Bill 1018)

AN ACT concerning

### **Prior Authorizations of State Debt to Fund Capital Projects – Alterations**

FOR the purpose of amending certain prior Acts of the General Assembly that authorized the creation of State Debt through the issuance, sale, and delivery of general obligation bonds, the proceeds of which were designated for funding certain capital projects; extending the deadline by which certain loan proceeds must be expended or encumbered by the Board of Public Works; extending the deadline by which certain grantees must present evidence to the Board of Public Works that certain matching funds will be provided; altering and expanding the authorized uses of certain grants; altering the purpose of certain grants; altering the grantees under certain projects; altering the location of certain grants; reducing the amount of certain grants and increasing the amount of certain grants; repealing a requirement that a certain grantee grant and convey a certain easement; ~~repealing~~ altering the requirement that certain grantees

provide a certain matching fund; altering the matching fund requirements of certain grants; providing that a certain facility may only be used for certain recreational purposes and may not be used for residential certain purposes; making this Act an emergency measure; providing for the effective date of certain provisions of this Act; amending the Program Open Space Acquisition Opportunity Loan of 2009 to provide that the bonds authorized under the Act may be special or general obligation bonds and clarifying the method of issuance, sale, and delivery of the bonds; and generally relating to amending prior authorizations of State Debt by the General Assembly to fund certain capital projects.

BY repealing and reenacting, with amendments,

Chapter 508 of the Acts of the General Assembly of 2000, as amended by Chapter 488 of the Acts of the General Assembly of 2007  
Section 1(3) Item RB23(A)

BY repealing and reenacting, with amendments,

Chapter 163 of the Acts of the General Assembly of 2001, as amended by  
Chapter 219 of the Acts of the General Assembly of 2008  
Section 1

BY repealing and reenacting, with amendments,

Chapter 326 of the Acts of the General Assembly of 2001, as amended by  
Chapter 30 of the Acts of the General Assembly of 2003, Chapter 188 of  
the Acts of the General Assembly of 2005, and Chapter 219 of the Acts of  
the General Assembly of 2008  
Section 1

BY repealing and reenacting, with amendments,

Chapter 204 of the Acts of the General Assembly of 2003, as amended by  
Chapter 432 of the Acts of the General Assembly of 2004, Chapter 94 of  
the Acts of the General Assembly of 2005, and Chapter 488 of the Acts of  
the General Assembly of 2007  
Section 13(3)(ii) Item (T-2)

BY repealing and reenacting, with amendments,

Chapter 204 of the Acts of the General Assembly of 2003, as amended by  
Chapter 432 of the Acts of the General Assembly of 2004 and Chapter 707  
of the Acts of the General Assembly of 2009  
Section 13(3)(ii) Item (O)

BY repealing and reenacting, with amendments,

Chapter 445 of the Acts of the General Assembly of 2005, as amended by  
Chapter 65 of the Acts of the General Assembly of 2007, Chapter 219 of  
the Acts of the General Assembly of 2008, and Chapter 707 of the Acts of  
the General Assembly of 2009  
Section 1(3) Item ZA01(AR) and Item ZA02(AV)

BY repealing and reenacting, with amendments,  
 Chapter 46 of the Acts of the General Assembly of 2006  
 Section 1(3) Item ZA01(G) and Item ZA02(~~BX~~) (F), (BX), and (BZ)

BY adding to  
 Chapter 46 of the Acts of the General Assembly of 2006  
 Section 1(3) Item ZA02(BZ-1) and (BZ-2)

BY repealing and reenacting, with amendments,  
 Chapter 46 of the Acts of the General Assembly of 2006, as amended by Chapter  
 219 of the Acts of the General Assembly of 2008  
 Section 1(3) Item ZA01(R) and (AC) and Item ZA02(W) and (AC)

BY repealing and reenacting, with amendments,  
Chapter 46 of the Acts of the General Assembly of 2006, as amended by Chapter  
219 of the Acts of the General Assembly of 2008 and Chapter 707 of the  
Acts of the General Assembly of 2009  
Section 1(3) Item ZA01(CP) and Item ZA02(AZ)

BY repealing and reenacting, with amendments,  
 Chapter 488 of the Acts of the General Assembly of 2007  
 Section 1(3) Item RB27(A), Item ZA01(AR) and (BM), and Item ZA02(AM), (BZ),  
and (CD) and 12(3) Item RB27(A)

BY adding to  
 Chapter 488 of the Acts of the General Assembly of 2007  
 Section 1(3) Item ZA02(BO-1)

BY repealing and reenacting, with amendments,  
 Chapter 488 of the Acts of the General Assembly of 2007, as amended by  
 Chapter 219 of the Acts of the General Assembly of 2008  
 Section 1(3) Item ZA02(BO)

BY repealing and reenacting, with amendments,  
Chapter 488 of the Acts of the General Assembly of 2007, as amended by  
Chapter 707 of the Acts of the General Assembly of 2009  
Section 1(3) Item ZA01(AT) and Item ZA02(BH)

BY repealing and reenacting, with amendments,  
 Chapter 336 of the Acts of the General Assembly of 2008  
 Section 1(3) Item RB27(A), Item ZA01(H), (X), (AA), (AF), (AG), (BG), (BY), (~~BY~~),  
and (CA), (CH), and (CM), and Item ZA02(J), (X), (AA), (~~AA~~) (AC), (AQ),  
(AV), (BC), (BI), (~~BI~~), (BM), (BQ), (~~BQ~~) (BR), and (BV)

BY adding to  
 Chapter 336 of the Acts of the General Assembly of 2008

Section 1(3) Item (ZA02)(BV-1) and (BV-2)

BY repealing and reenacting, with amendments,

Chapter 419 of the Acts of the General Assembly of 2009

Section 2(1) and 4

BY repealing and reenacting, with amendments,

Chapter 485 of the Acts of the General Assembly of 2009

Section 1(3) Item ZA00(AA) and (AB), ~~Item ZA00(AB)~~, Item ZA02(~~C~~), (C), (M), (O), ~~and~~ (AB), and (AH), and Item ZA03(~~C~~), (C), (AE), ~~and~~ (AH), (AM), and (BD)

BY repealing and reenacting, with amendments,

Chapter 336 of the Acts of the General Assembly of 2008, as amended by

Chapter 707 of the Acts of the General Assembly of 2009

Section 1(3) Item ZA00(M)

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

**Chapter 508 of the Acts of 2000, as amended by Chapter 488 of the Acts of 2007**

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

(3) RB23 BOWIE STATE UNIVERSITY  
(Prince George’s County)

(A) Campuswide Site Improvements. Provide a portion of the funds to construct site improvements on the Bowie State University campus. Notwithstanding Section 8-128 of the State Finance and Procurement Article, this authorization shall not terminate prior to June 1, [2009] 2010 ..... 2,500,000

**Chapter 163 of the Acts of 2001, as amended by Chapter 219 of the Acts of 2008**

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Baltimore City – Ivy Family Support Center Loan of 2001 in a total principal amount equal to the lesser of (i) \$225,000 or (ii) the amount of the matching fund provided in accordance with Section 1(5) below. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board

of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees: as a grant to the Board of Directors of the Epsilon Omega Foundation, Inc. (referred to hereafter in this Act as "the grantee") for the planning, design, construction, renovation, and capital equipping of the Ivy Family Support Center, to be located at 3515 Dolfield Avenue in Baltimore, Maryland.

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest on the bonds, as and when due and until paid in full. The principal shall be discharged within 15 years after the date of issuance of the bonds.

(5) Prior to the payment of any funds under the provisions of this Act for the purposes set forth in Section 1(3) above, the grantee shall provide and expend a matching fund. No part of the grantee's matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. The fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act. In case of any dispute as to the amount of the matching fund or what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter and the Board's decision is final. The grantee has until June 1, 2003, to present evidence satisfactory to the Board of Public Works that a matching fund will be provided. If satisfactory evidence is presented, the Board shall certify this fact and the amount of the matching fund to the State Treasurer, and the proceeds of the loan equal to the amount of the matching fund shall be expended for the purposes provided in this Act. Any amount of the loan in excess of the amount of the matching fund certified by the Board of Public Works shall be canceled and be of no further effect.

(6) The proceeds of the loan must be expended or encumbered by the Board of Public Works for the purposes provided in this Act no later than June 1, [2010] **2012**. If any funds authorized by this Act remain unexpended or unencumbered after June 1, [2010] **2012**, the amount of the unencumbered or unexpended authorization shall be canceled and be of no further effect. If bonds have been issued for the loan, the amount of unexpended or unencumbered bond proceeds shall be disposed of as provided in § 8–129 of the State Finance and Procurement Article.

**Chapter 326 of the Acts of 2001, as amended by Chapter 30 of the Acts of 2003,  
Chapter 188 of the Acts of 2005, and Chapter 219 of the Acts of 2008**

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Prince George's County – Kettering Largo Boys & Girls Club Storage Facility Loan of 2001 in a total principal amount equal to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided in accordance with Section 1(5) below. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees: as a grant to the Board of Directors of Kettering Largo Boys & Girls Club (referred to hereafter in this Act as "the grantee") for the planning, design, construction, and capital equipping of a storage facility for the Kettering Largo Boys & Girls Club.

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest on the bonds, as and when due and until paid in full. The principal shall be discharged within 15 years after the date of issuance of the bonds.

(5) Prior to the payment of any funds under the provisions of this Act for the purposes set forth in Section 1(3) above, the grantee shall provide and expend a matching fund. No part of the grantee's matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. No part of the fund may consist of funds expended prior to the effective date of this Act. The fund may consist of real property or in kind contributions. In case of any dispute as to the amount of the matching fund or what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter and the Board's decision is final. The grantee has until June 1, [2010] 2012, to present evidence satisfactory to the Board of Public Works that a matching fund will be provided. If satisfactory evidence is presented, the Board shall certify this fact and the amount of the matching fund to the State Treasurer, and the

proceeds of the loan equal to the amount of the matching fund shall be expended for the purposes provided in this Act. Any amount of the loan in excess of the amount of the matching fund certified by the Board of Public Works shall be canceled and be of no further effect.

(6) The proceeds of the loan must be expended or encumbered by the Board of Public Works for the purposes provided in this Act no later than June 1, [2010] **2012**. If any funds authorized by this Act remain unexpended or unencumbered after June 1, [2010] **2012**, the amount of the unencumbered or unexpended authorization shall be canceled and be of no further effect. If bonds have been issued for the loan, the amount of unexpended or unencumbered bond proceeds shall be disposed of as provided in § 8–129 of the State Finance and Procurement Article.

**Chapter 204 of the Acts of 2003, as amended by Chapter 432 of the Acts of 2004, Chapter 94 of the Acts of 2005, and Chapter 488 of the Acts of 2007**

SECTION 13. AND BE IT FURTHER ENACTED, That:

(3) (ii) \$2,500,000 for the following projects initially approved by the House:

- (T-2) Wicomico County Library. Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the County Executive and County Council of Wicomico County for [the] **STUDIES, PLANNING, AND** design of the Wicomico County Library (Wicomico County) ..... 50,000

**Chapter 204 of the Acts of 2003, as amended by Chapter 432 of the Acts of 2004 and Chapter 707 of the Acts of 2009**

SECTION 13. AND BE IT FURTHER ENACTED, That:

(3) (ii) \$2,500,000 for the following projects initially approved by the House:

- (O) MacDonal Knolls Center. Provide a grant equal to the lesser of (i) \$200,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Chi Centers, Inc. for the repair, renovation, reconstruction, construction, and capital equipping of the MacDonal Knolls Center, located in Silver Spring. **NOTWITHSTANDING SECTION 13(5) OF THIS ACT, THE GRANTEE MUST PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED BY JUNE 1, 2012. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE PROCEEDS OF THE LOAN MUST BE ENCUMBERED BY THE BOARD OF PUBLIC WORKS OR EXPENDED FOR THE**

**PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE**

**1, 2012 (Montgomery County) ..... 200,000**

**Chapter 445 of the Acts of 2005, as amended by Chapter 65 of the Acts of 2007, Chapter 219 of the Acts of 2008, and Chapter 707 of the Acts of 2009**

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

(3) ZA01 LOCAL HOUSE OF DELEGATES INITIATIVES

(AR) Old Blair High School Auditorium. Provide a grant equal to the lesser of (i) \$300,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Old Blair Auditorium Project, Inc. for the repair, renovation, construction, reconstruction, and capital equipping of the Old Blair High School Auditorium located in Silver Spring. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act and the grantee must present evidence that a matching fund will be provided by June 1, [2011] 2012 (Montgomery County)..... 300,000

ZA02 LOCAL SENATE INITIATIVES

(AV) Old Blair High School Auditorium. Provide a grant equal to the lesser of (i) \$300,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Old Blair Auditorium Project, Inc. for the repair, renovation, construction, reconstruction, and capital equipping of the Old Blair High School Auditorium located in Silver Spring. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act and the grantee must present evidence that a matching fund will be provided by June 1, [2011] 2012 (Montgomery County)..... 300,000

**Chapter 46 of the Acts of 2006**

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

(3) ZA01 LOCAL SENATE INITIATIVES

(F) Maryland Historical Society. Provide a grant [equal to the lesser of (i)] OF \$250,000 [for (ii) the amount of the matching

fund provided,] to the Board of Trustees of The Maryland Historical Society, Inc. for the renovation and reconstruction of the library and garage, and for the planning, design, construction, and capital equipping of a textile gallery and multipurpose classroom at the Maryland Historical Society, located in Baltimore City, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust. [Notwithstanding Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act] (Baltimore City) ..... 250,000

(G) Maryland Historical Society. Provide a grant [equal to the lesser of (i)] OF \$250,000 [or (ii) the amount of the matching fund provided,] to the Board of Trustees of The Maryland Historical Society, Inc. for the renovation and reconstruction of the library and garage, and for the planning, design, construction, and capital equipping of a textile gallery and multipurpose classroom at the Maryland Historical Society, located in Baltimore City, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust. [Notwithstanding Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act] (Baltimore City) ..... 250,000

ZA02 LOCAL HOUSE OF DELEGATES INITIATIVES

(BX) **[YMCA Renaissance Square.] 3505 HAMILTON STREET.** Provide a grant equal to the lesser of (i) \$200,000 or (ii) the amount of the matching fund provided, to the [Board of Directors of YMCA Metropolitan Washington, Inc.] **MAYOR AND CITY COUNCIL OF THE CITY OF HYATTSVILLE** for the [design, and construction, including related site preparation, of the YMCA Renaissance Square,] **REPAIR AND RENOVATION OF THE BUILDING AT 3505 HAMILTON STREET,** located in Hyattsville. **NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE MATCHING FUND MAY CONSIST OF REAL PROPERTY OR FUNDS EXPENDED PRIOR TO THE EFFECTIVE DATE OF THIS ACT AND THE GRANTEE HAS UNTIL JUNE 1, 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (Prince George’s County) ..... 200,000**

(BZ) St. Mary’s College Amphitheater. Provide a grant equal to the lesser of (i) ~~[\$250,000]~~ ~~\$100,000~~ **\$0** or (ii) the amount of the matching fund provided, to the Board of Directors of the St.

Mary’s College of Maryland Foundation, Inc. for the planning, design, construction, and capital equipping of the St. Mary’s College Amphitheater, located in St. Mary’s City. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property or funds expended prior to the effective date of this Act (St. Mary’s County) .....

[250,000]  
~~100,000~~  
0

**(BZ-1) PATHWAY’S FACILITY RENOVATION. PROVIDE A GRANT EQUAL TO THE LESSER OF (I) ~~\$150,000~~ \$125,000 OR (II) THE AMOUNT OF THE MATCHING FUND PROVIDED, TO THE BOARD OF DIRECTORS OF PATHWAY’S, INC. FOR THE CONSTRUCTION, REPAIR, RENOVATION, AND CAPITAL EQUIPPING OF THE PATHWAY’S FACILITY, LOCATED IN HOLLYWOOD. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE MATCHING FUND MAY CONSIST OF REAL PROPERTY AND THE GRANTEE HAS UNTIL JUNE 1, 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (ST. MARY’S COUNTY) .....**

~~150,000~~  
125,000

**(BZ-2) CEDAR LANE APARTMENT RENOVATIONS. PROVIDE A GRANT EQUAL TO THE LESSER OF (I) \$125,000 OR (II) THE AMOUNT OF THE MATCHING FUND PROVIDED, TO THE BOARD OF DIRECTORS OF THE FRIENDS OF CEDAR LANE, INC., FOR THE RENOVATION, RECONSTRUCTION, AND CAPITAL EQUIPPING OF THE CEDAR LANE APARTMENTS, INCLUDING REPLACEMENT OF THE ROOF, ROOFTOP HVAC UNIT, AND EMERGENCY GENERATOR, LOCATED IN LEONARDTOWN. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (ST. MARY’S COUNTY) .....**

125,000

**Chapter 46 of the Acts of 2006, as amended by Chapter 219 of the Acts of 2008**

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

(3) ZA01 LOCAL SENATE INITIATIVES

(R) Baltimore Clayworks. Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to

the Board of Trustees of Baltimore Clayworks, Inc. for the planning, design, construction, capital equipping, and installation of an elevator and community and multipurpose rooms, and the repair, renovation, and reconstruction of upgrades to the plumbing, electrical, and roofing systems of Baltimore Clayworks, Inc., located in Baltimore City, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions. Notwithstanding Section 1(5) of this Act, the grantee has until June 1, [2010] **2012**, to present evidence that a matching fund will be provided (Baltimore City) .....

50,000

(AC) Peale Museum. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the [Baltimore City Historical Society, Inc.] **BALTIMORE HISTORY CENTER AT THE PEALE, INC.** for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Peale Museum, located on Holliday Street in Baltimore City, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Act, the grantee has until June 1, [2010] **2012**, to present evidence that a matching fund will be provided (Baltimore City) .....

125,000

ZA02 LOCAL HOUSE OF DELEGATES INITIATIVES

(W) Baltimore Clayworks. Provide a grant equal to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of Baltimore Clayworks, Inc. for the planning, design, construction, capital equipping, and installation of an elevator and community and multipurpose rooms, and the repair, renovation, and reconstruction of upgrades to the plumbing, electrical, and roofing systems of Baltimore Clayworks, Inc., located in Baltimore City, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions. Notwithstanding Section 1(5) of this Act, the grantee has until June 1, [2010] **2012**, to present evidence that a matching fund will be provided (Baltimore City) .....

150,000

(AC) Peale Museum. Provide a grant equal to the lesser of (i)

\$125,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the [Baltimore City Historical Society, Inc.] **BALTIMORE HISTORY CENTER AT THE PEALE, INC.** for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Peale Museum, located in Baltimore City, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Act, the grantee has until June 1, [2010] **2012**, to present evidence that a matching fund will be provided (Baltimore City) .....

125,000

**Chapter 46 of the Acts of 2006, as amended by Chapter 219 of the Acts of 2008 and Chapter 707 of the Acts of 2009**

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

**(3) ZA01 LOCAL SENATE INITIATIVES**

**(CP) Our House Youth Home. Provide a grant equal to the lesser of (i) \$175,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Our House Youth Home, Inc. for the construction and capital equipping of a new dormitory at Our House Youth Home, located in Olney, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Act, the grantee has until June 1, [2010] 2012, to present evidence that a matching fund will be provided (Montgomery County) .....**

175,000

**ZA02 LOCAL HOUSE INITIATIVES**

**(AZ) Our House Youth Home. Provide a grant equal to the lesser of (i) \$250,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Our House Youth Home, Inc. for the construction and capital equipping of a new dormitory at Our House Youth Home, located in Olney, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Act, the grantee has until June 1, [2010] 2012, to present evidence that a matching fund will be provided (Montgomery County) .....**

250,000

Chapter 488 of the Acts of 2007

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

(3) RB27 COPPIN STATE UNIVERSITY  
(Baltimore City)

(A) New Physical Education Complex. Provide funds to DEMOLISH THE PHYSICAL EDUCATION COMPLEX AND construct the new Physical Education Complex, including outdoor athletic fields and Facilities Maintenance and Public Safety Spaces, provided that notwithstanding Section 6 of this Act, work may commence on this project prior to appropriation of all the funds necessary to complete the project ..... 64,206,000

ZA01 LOCAL HOUSE INITIATIVES

(AR) Public Safety Memorial. Provide a grant equal to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Arts and Humanities Council of Montgomery County, Inc. for the construction and capital equipping of the Public Safety Memorial, located in [Rockville] **MONTGOMERY COUNTY** (Montgomery County) ..... 150,000

(BM) [St. Mary's College Amphitheater.] ST. MARY'S COUNTY FAIRGROUNDS. Provide a grant equal to the lesser of (i) \$75,000 or (ii) the amount of the matching fund provided, to the [Board of Directors of the St. Mary's College of Maryland Foundation, Inc.] BOARD OF DIRECTORS OF THE ST. MARY'S COUNTY FAIR ASSOCIATION, INC. for the [planning, design,] construction, REPAIR, RENOVATION, RECONSTRUCTION, and capital equipping of the [St. Mary's College Amphitheater.] ST. MARY'S COUNTY FAIRGROUNDS, located in St. Mary's City. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, IN KIND CONTRIBUTIONS, or funds expended prior to the effective date of this Act AND THE GRANTEE HAS UNTIL JUNE 1, 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (St. Mary's County) ... 75,000

ZA02 LOCAL SENATE INITIATIVES

- (AM) Old Waldorf School Community Center. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Friends of Old Waldorf School Foundation, Inc. for the construction, repair, renovation, reconstruction, and capital equipping of the Old Waldorf School for use as a community center, located in Waldorf. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act, **INCLUDING FUNDS EXPENDED ON OR AFTER JANUARY 1, 2002. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Charles County) ..... 100,000
- (BO-1) LAUREL ARMORY ANDERSON MURPHY COMMUNITY CENTER. PROVIDE A GRANT OF \$30,000, TO THE MAYOR AND CITY COUNCIL OF THE CITY OF LAUREL FOR THE RENOVATION, RECONSTRUCTION, AND CAPITAL EQUIPPING OF THE LAUREL ARMORY ANDERSON MURPHY COMMUNITY CENTER, LOCATED IN LAUREL (PRINCE GEORGE’S COUNTY) ..... 30,000**
- (BZ) St. Mary’s Agriculture Service Center. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Supervisors of the St. Mary’s Soil Conservation District for the ACQUISITION, PLANNING, DESIGN, AND construction of the St. Mary’s Agriculture Service Center, located in Leonardtown. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property (St. Mary’s County) ..... 100,000
- (CD) Chesapeake and Ohio Canal National Historical Park. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Chesapeake and Ohio Canal National Historical Park for the planning, design, and repair to the towpath in the Big Slackwater section of the Chesapeake and Ohio National Historical Park, located in Downsville[, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust] (Washington County) ..... 100,000

SECTION 12. AND BE IT FURTHER ENACTED, That:

(3) RB27 COPPIN STATE UNIVERSITY  
(Baltimore City)

(A) New Physical Education Complex. Provide funds for the  
DEMOLITION OF THE PHYSICAL EDUCATION COMPLEX  
AND THE construction of a new Physical Education Complex,  
including outdoor athletic fields and Facilities Maintenance  
and Public Safety Space..... 30,000,000

**Chapter 488 of the Acts of 2007, as amended by Chapter 219 of the Acts of 2008**

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

(3) ZA02 LOCAL SENATE INITIATIVES

(BO) Historic Laurel Mill Ruins. Provide a grant of [\$100,000] **\$70,000**, to the Mayor and City Council of the City of Laurel for the repair, stabilization, and reconstruction of the Historic Laurel Mill Ruins, located in Laurel (Prince George's County) ..... **[100,000]**  
**70,000**

**Chapter 488 of the Acts of 2007, as amended by Chapter 707 of the Acts of 2009**

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

(3) ZA01 LOCAL HOUSE INITIATIVES

(AT) MacDonald Knolls Center. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Chi Centers, Inc. for the repair, renovation, reconstruction, construction, and capital equipping of the MacDonald Knolls Center, located in Silver Spring. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE MUST PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED BY JUNE 1, 2012 (Montgomery County) ..... 100,000

ZA02 LOCAL SENATE INITIATIVES

(BH) MacDonald Knolls Center. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Chi Centers, Inc. for the repair, renovation, reconstruction, construction, and capital equipping of the MacDonald Knolls Center, located in Silver Spring. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE MUST PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED BY JUNE 1, 2012 (Montgomery County) ..... 100,000

**Chapter 336 of the Acts of 2008**

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

(3) RB27 COPPIN STATE UNIVERSITY  
*(Baltimore City)*

(A) New Physical Education Complex. Provide funds to DEMOLISH THE PHYSICAL EDUCATION COMPLEX AND construct and equip the new Physical Education Complex, including outdoor athletic fields and facilities maintenance and public safety spaces ..... 9,439,000

ZA01 LOCAL SENATE INITIATIVES

(H) Allegany County Museum. Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Western Maryland Station Center, Inc. for the planning [and], design, AND CONSTRUCTION of the Allegany County Museum, located in Cumberland, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act (Allegany County) ..... 50,000

(X) NACA Education and Community Center. Provide a grant equal to the lesser of (i) \$200,000 or (ii) the amount of the matching fund provided, to the Board of Directors of The Freedom and Democracy Schools Foundation, Inc. for the construction of the NACA Education and Community Center, located in Baltimore City, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust. NOTWITHSTANDING SECTION 1(5) OF

**THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (Baltimore City) ..... 200,000**

**(AA) Roberta’s House. Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Roberta’s House, Inc. for the acquisition, planning, design, renovation, construction, reconstruction, repair, and capital equipping of Roberta’s House, located in Baltimore City. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act AND THE GRANTEE MUST PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED BY JUNE 1, 2012 (Baltimore City) ..... 50,000**

**(AF) Community Post. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Kingdom Economic System, Inc. for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Community Post, located in Dundalk. PROVIDED THAT THE COMMUNITY POST FACILITY MAY ONLY BE USED FOR THE RECREATIONAL ENJOYMENT OF THE COMMUNITY AND MAY NOT BE USED FOR RESIDENTIAL PURPOSES, A HALF WAY HOUSE, OR REENTRY FROM ANY PENAL INSTITUTION. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property or funds expended prior to the effective date of this Act AND THE GRANTEE HAS UNTIL JUNE 1, 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (Baltimore County) .. 125,000**

**(AG) Family Life Intergenerational Center. Provide a grant equal to the lesser of (i) \$250,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the We Are Family Community Development, Inc. for the planning, design, construction, renovation, and capital equipping of the Family Life Intergenerational Center, located in Randallstown. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended [prior to the effective date of this Act] ON OR AFTER JANUARY 1, 2005, AND THE GRANTEE HAS UNTIL JUNE 1, 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (Baltimore County) ..... 250,000**

- (BG) Button Farm Historic Preservation and Rehabilitation. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided, to the Board of Directors of The Menare Foundation, Inc. for the planning, design, construction, repair, and renovation of the Button Farm, located in Germantown. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act **AND THE GRANTEE MUST PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED BY JUNE 1, 2012** (Montgomery County) ..... 125,000
- ~~(BY) ~~Forest Heights Municipal Building. Provide a grant equal to [the lesser of (i)] \$100,000 [or (ii) the amount of the matching fund provided,] to the Mayor and Town Council of the Town of Forest Heights for the repair, renovation, reconstruction, and capital equipping of the Forest Heights Municipal Building, located in Forest Heights (Prince George’s County) ..... 100,000~~~~
- (BY) *Forest Heights Municipal Building. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Mayor and Town Council of the Town of Forest Heights for the repair, renovation, reconstruction, and capital equipping of the Forest Heights Municipal Building, located in Forest Heights. **NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE MATCHING FUND MAY CONSIST OF REAL PROPERTY, IN KIND CONTRIBUTIONS, AND FUNDS EXPENDED PRIOR TO THE EFFECTIVE DATE OF THIS ACT AND THE GRANTEE HAS UNTIL JUNE 1, 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (Prince George’s County) ..... 100,000***
- (CA) [Historic Laurel Mills Ruins] **LAUREL ARMORY ANDERSON MURPHY COMMUNITY CENTER**. Provide a grant equal to the lesser of (i) \$75,000 or (ii) the amount of the matching fund provided, to the Mayor and City Council of the City of Laurel for the [repair, stabilization; and] **RENOVATION, reconstruction, AND CAPITAL EQUIPPING** of [Historic Laurel Mills Ruins] **THE LAUREL ARMORY ANDERSON MURPHY COMMUNITY CENTER**, located in Laurel. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act **AND THE GRANTEE MUST PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED BY JUNE 1, 2012** (Prince George’s County) ..... 75,000

(CM) St. Mary's Agricultural Service Center. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided, to The Board of Supervisors of the St. Mary's Soil Conservation District for the ACQUISITION, PLANNING, design, and construction of an agricultural service center, located in Leonardtown. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property (St. Mary's County) ..... 125,000

ZA02 LOCAL HOUSE INITIATIVES

(J) Goshen House. Provide a grant equal to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Goshen Farm Preservation Society, Inc. for the planning, design, construction, repair, renovation, reconstruction, emergency stabilization, and capital equipping of the Goshen House, located in Cape St. [Clair] **CLAIRE**, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act **AND THE GRANTEE MUST PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED BY JUNE 1, 2012** (Anne Arundel County) ..... 150,000

(X) Roberta's House. Provide a grant equal to the lesser of (i) \$250,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Roberta's House, Inc. for the acquisition, planning, design, renovation, construction, reconstruction, repair, and capital equipping of Roberta's House, located in Baltimore City. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act **AND THE GRANTEE MUST PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED BY JUNE 1, 2012** (Baltimore City) ..... 250,000

~~(AA)~~ ~~Youth Sports Program Facility. Provide a grant equal to [the lesser of (i)] \$100,000 [or (ii) the amount of the matching fund provided,] to the Board of Directors of the Youth Sports Program, Inc. for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Youth Sports Program Facility, located in Baltimore City (Baltimore City) .....~~ ~~100,000~~

- (AA) Youth Sports Program Facility. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Youth Sports Program, Inc. for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Youth Sports Program Facility, located in Baltimore City. **NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE MATCHING FUND MAY CONSIST OF REAL PROPERTY, IN KIND CONTRIBUTIONS, OR FUNDS EXPENDED PRIOR TO THE EFFECTIVE DATE OF THIS ACT AND THE GRANTEE HAS UNTIL JUNE 1, 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (Baltimore City) .....** 100,000
- (AC) Community Post. Provide a grant equal to the lesser of (i) \$175,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Kingdom Economic System, Inc. for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Community Post, located in Dundalk. **PROVIDED THAT THE COMMUNITY POST FACILITY MAY ONLY BE USED FOR THE RECREATIONAL ENJOYMENT OF THE COMMUNITY AND MAY NOT BE USED FOR RESIDENTIAL PURPOSES, A HALF WAY HOUSE, OR REENTRY FROM ANY PENAL INSTITUTION.** Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property or funds expended prior to the effective date of this Act **AND THE GRANTEE HAS UNTIL JUNE 1, 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (Baltimore County) ..** 175,000
- (AQ) Button Farm Historic Preservation and Rehabilitation. Provide a grant equal to the lesser of (i) \$175,000 or (ii) the amount of the matching fund provided, to the Board of Directors of The Menare Foundation, Inc. for the planning, design, construction, repair, and renovation of the Button Farm, located in Germantown. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act **AND THE GRANTEE MUST PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED BY JUNE 1, 2012 (Montgomery County) .....** 175,000
- (AV) Imagination Stage. Provide a grant equal to the lesser of (i) \$200,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of Imagination Stage, Inc. for the

planning, design, construction, reconstruction, capital equipping, and repair of Imagination Stage, located in Bethesda. Notwithstanding Section 1(5) of this Act, the matching fund may consist of funds expended [prior to the effective date of this Act] ON OR AFTER JANUARY 1, 2002, AND THE GRANTEE HAS UNTIL JUNE 1, 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (Montgomery County) ..... 200,000

(BC) Waters Barn Rehabilitation. Provide a grant equal to the lesser of (i) \$250,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Montgomery County Historical Society, Inc. for the design, repair, renovation, and reconstruction of the Waters Barn, located in Germantown, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions **AND THE GRANTEE HAS UNTIL JUNE 1, 2011, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (Montgomery County) ..... 250,000**

~~(BI) Forest Heights Municipal Building. Provide a grant equal to [the lesser of (i)] \$100,000 [or (ii) the amount of the matching fund provided,] to the Mayor and Town Council of the Town of Forest Heights for the repair, renovation, reconstruction, and capital equipping of the Forest Heights Municipal Building, located in Forest Heights]. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act] (Prince George's County) ..... 100,000~~

(BI) *Forest Heights Municipal Building. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Mayor and Town Council of the Town of Forest Heights for the repair, renovation, reconstruction, and capital equipping of the Forest Heights Municipal Building, located in Forest Heights. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act AND THE GRANTEE HAS UNTIL JUNE 1, 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (Prince George's County) ..... 100,000*

(BM) [Historic Laurel Mills Ruins] **LAUREL ARMORY ANDERSON**

**MURPHY COMMUNITY CENTER.** Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Mayor and City Council of the City of Laurel for the [repair, stabilization, and] **RENOVATION, reconstruction, AND CAPITAL EQUIPPING** of [Historic Laurel Mills Ruins] **THE LAUREL ARMORY ANDERSON MURPHY COMMUNITY CENTER**, located in Laurel. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act **AND THE GRANTEE MUST PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED BY JUNE 1, 2012** (Prince George’s County) .....

100,000

~~(BQ) Rosaryville Conservancy Tack House and Stables. Provide a grant equal to [the lesser of (i)] \$100,000 [or (ii) the amount of the matching fund provided,] to the Board of Directors of the Rosaryville Conservancy, Inc. for the repair, renovation, and restoration of the tack house and stables located in the conservancy area on the grounds of the Mount Airy Mansion, located in Upper Marlboro. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions.] (Prince George’s County) .....~~

~~100,000~~

(BQ) Rosaryville Conservancy Tack House and Stables. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Rosaryville Conservancy, Inc. for the repair, renovation, and restoration of the tack house and stables located in the conservancy area on the grounds of the Mount Airy Mansion, located in Upper Marlboro. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions AND FUNDS EXPENDED PRIOR TO THE EFFECTIVE DATE OF THIS ACT AND THE GRANTEE HAS UNTIL JUNE 1, 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (Prince George’s County) .....

100,000

(BV) St. Mary’s College Amphitheater. Provide a grant equal to the lesser of (i) [~~\$300,000~~] **\$0** or (ii) the amount of the matching fund provided, to the Board of Directors of the St. Mary’s College of Maryland Foundation, Inc. for the planning, design, construction, and capital equipping of the St. Mary’s College Amphitheater, located in St. Mary’s City. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property or funds expended prior to the effective date of this

Act (St. Mary's County).....	[300,000]
	0

~~(BV-1) CEDAR LANE APARTMENT RENOVATIONS. PROVIDE A GRANT EQUAL TO THE LESSER OF (I) \$150,000 OR (II) THE AMOUNT OF THE MATCHING FUND PROVIDED, TO THE BOARD OF DIRECTORS OF THE FRIENDS OF CEDAR LANE, INC., FOR THE RENOVATION, RECONSTRUCTION, AND CAPITAL EQUIPPING OF THE CEDAR LANE APARTMENTS, INCLUDING REPLACEMENT OF THE ROOF, ROOFTOP HVAC UNIT, AND EMERGENCY GENERATOR, LOCATED IN LEONARDTOWN. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (ST. MARY'S COUNTY) ..... 150,000~~

(BV-1) BAY DISTRICT VFD. PROVIDE A GRANT EQUAL TO THE LESSER OF (I) \$150,000 OR (II) THE AMOUNT OF THE MATCHING FUND PROVIDED, TO THE BAY DISTRICT VFD FOR CAPITAL PROJECTS OF THE BAY DISTRICT VOLUNTEER FIRE DEPARTMENT, LOCATED IN ST. MARY'S COUNTY. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (ST. MARY'S COUNTY) ..... 150,000

(BV-2) UNITED STATES COLORED TROOPS MEMORIAL MONUMENT. PROVIDE A GRANT EQUAL TO THE LESSER OF (I) \$150,000 OR (II) THE AMOUNT OF THE MATCHING FUND PROVIDED, TO THE BOARD OF DIRECTORS OF THE UNIFIED COMMITTEE FOR AFRO-AMERICAN CONTRIBUTIONS, INC., FOR THE ACQUISITION, PLANNING, DESIGN, CONSTRUCTION, AND CAPITAL EQUIPPING OF THE UNITED STATES COLORED TROOPS MEMORIAL MONUMENT, LOCATED IN LEXINGTON PARK. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE MATCHING FUND MAY CONSIST OF REAL PROPERTY, IN KIND CONTRIBUTIONS, OR FUNDS EXPENDED PRIOR TO THE EFFECTIVE DATE OF THIS ACT AND THE GRANTEE HAS UNTIL JUNE 1, 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (ST. MARY'S COUNTY) ..... 150,000

**Chapter 336 of the Acts of 2008, as amended by Chapter 707 of the Acts of 2009**

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

(3) ZA00 MISCELLANEOUS GRANT PROGRAMS

(M) Maryland Independent College and University Association – Sojourner–Douglass College – Science and Allied Health Facility. Provide a grant equal to the lesser of (i) \$3,250,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of Sojourner–Douglass College to assist in the design and construction of the expansion and renovation of a newly acquired building located at 249 N. Aisquith Street in Baltimore, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act AND THE GRANTEE MUST PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED BY JUNE 1, 2012 (Baltimore City) ..... 3,250,000

**Chapter 419 of the Acts of 2009**

SECTION 2. AND BE IT FURTHER ENACTED, That:

(1) On request of the Governor, the Board of Public Works may borrow money and incur [special obligation] indebtedness through a special **OR GENERAL obligation loan to be known as the Program Open Space Acquisition Opportunity Loan of 2009 in the total principal amount up to \$70,000,000. This loan shall be evidenced by the issuance, sale, and delivery of SPECIAL OR GENERAL OBLIGATION Maryland Program Open Space bonds authorized, issued[, sold, and delivered in accordance with] BY a resolution adopted by 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.**

SECTION 4. AND BE IT FURTHER ENACTED, That the Comptroller may, upon the request of the Governor, advance funds for land acquisition opportunity purposes under this Act, provided that if [special obligation] bonds have not been issued under the authority of this Act, the Board of Public Works shall within 1 year issue Program Open Space bonds under the authority of this Act in an amount at least equivalent to the amount of the funds so advanced.

**Chapter 485 of the Acts of 2009**

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

(3) ~~ZA00 MISCELLANEOUS GRANT PROGRAMS~~

~~(AB) Anne Arundel Community College. Provide a grant [equal to the lesser of (i)] OF \$1,000,000 [or (ii) the amount of the matching fund provided,] to the Anne Arundel Community College for the design and construction of a turf field, ATHLETIC TRACK, AND SCOREBOARD, located in Arnold (Anne Arundel County) ..... 1,000,000~~

ZA00 MISCELLANEOUS GRANT PROGRAMS

(AA) Maryland Science Center Green. Provide a grant [equal to the lesser of (i)] OF \$300,000 [or (ii) the amount of the matching fund provided,] to the Board of Trustees of the Maryland Academy of Sciences for the construction, reconstruction, repair, renovation, and capital equipping of a green roof, located in Baltimore[. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act] (Statewide) ..... 300,000

(AB) Anne Arundel Community College. Provide a grant [equal to the lesser of (i)] OF \$1,000,000 [or (ii) the amount of the matching fund provided,] to the Anne Arundel Community College for the design and construction of a turf field, ATHLETIC TRACK, AND SCOREBOARD, located in Arnold (Anne Arundel County) ..... 1,000,000

ZA02 HOUSE OF DELEGATES LEGISLATIVE INITIATIVES

~~(C) Easter Seals Inter-Generational Center. Provide a grant equal to [the lesser of (i)] \$35,000 [or (ii) the amount of the matching fund provided,] to the Board of Directors of Easter Seals Greater Washington-Baltimore Region, Inc. for the construction, repair, and capital equipping of the Easter Seals Inter-Generational Center, located in Silver Spring (Statewide)..... 35,000~~

(C) Easter Seals Inter-Generational Center. Provide a grant equal to [the lesser of (i)] \$35,000 [or (ii) the amount of the matching fund provided,] to the Board of Directors of Easter Seals Greater Washington-Baltimore Region, Inc. for the

construction, repair, and capital equipping of the Easter Seals Inter-Generational Center, located in Silver Spring (Statewide) .....

35,000

(M) Historical Freetown Renovation. Provide a grant equal to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Freetown Improvement Association for the design, construction, repair, and renovation of Freetown Elementary, located in Glen Burnie. **NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE MATCHING FUND MAY CONSIST OF FUNDS EXPENDED PRIOR TO THE EFFECTIVE DATE OF THIS ACT** (Anne Arundel County) .....

150,000

(O) Southern High School Field House. Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Southern High School Sports Booster Club, Inc. for the construction of the Southern High School Field House, located in Harwood. **NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE MATCHING FUND MAY CONSIST OF FUNDS EXPENDED PRIOR TO THE EFFECTIVE DATE OF THIS ACT** (Anne Arundel County) .....

50,000

(AB) Hospice House. Provide a grant equal to the lesser of (i) \$105,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Hospice of Charles County, Inc. for the acquisition, planning, design, construction, and capital equipping of a residential hospice house, located in [La Plata] **WALDORF**. Notwithstanding Section 1(5) of this Act, the matching fund may consist of **REAL PROPERTY AND** in kind contributions (Charles County) .....

105,000

(AH) Imagination Stage. Provide a grant equal to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of Imagination Stage, Inc. for the planning, design, construction, reconstruction, repair, and capital equipping of Imagination Stage, located in Bethesda. Notwithstanding Section 1(5) of this Act, the matching fund may consist of funds expended [prior to the effective date of this Act] **ON OR AFTER JANUARY 1, 2002, AND THE GRANTEE HAS UNTIL JUNE 1, 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Montgomery County) .....

150,000

- ~~(C)~~ ~~Easter Seals Inter-Generational Center. Provide a grant equal to [the lesser of (i)] \$35,000 [or (ii) the amount of the matching fund provided,] to the Board of Directors of Easter Seals Greater Washington-Baltimore Region, Inc. for the construction, repair, and capital equipping of the Easter Seals Inter-Generational Center, located in Silver Spring (Statewide) .....~~ ~~35,000~~
- (C) Easter Seals Inter-Generational Center. Provide a grant equal to [the lesser of (i)] \$35,000 [or (ii) the amount of the matching fund provided,] to the Board of Directors of Easter Seals Greater Washington-Baltimore Region, Inc. for the construction, repair, and capital equipping of the Easter Seals Inter-Generational Center, located in Silver Spring (Statewide) ..... 35,000
- (AE) Hospice House. Provide a grant equal to the lesser of (i) \$145,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Hospice of Charles County, Inc. for the acquisition, planning, design, construction, and capital equipping of a residential hospice house, located in [La Plata] **WALDORF**. Notwithstanding Section 1(5) of this Act, the matching fund may consist of **REAL PROPERTY AND** in kind contributions (Charles County) ..... 145,000
- (AH) The John Hanson Memorial. Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the John Hanson Memorial for the design, construction, and sculpture of the John Hanson Memorial, located in [Adamstown] **THE CITY OF FREDERICK** (Frederick County) ..... 50,000
- (AM) Imagination Stage. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of Imagination Stage, Inc. for the planning, design, construction, reconstruction, repair, and capital equipping of Imagination Stage, located in Bethesda. Notwithstanding Section 1(5) of this Act, the matching fund may consist of funds expended [prior to the effective date of this Act] **ON OR AFTER JANUARY 1, 2002, AND THE GRANTEE HAS UNTIL JUNE 1, 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Montgomery County) ..... 125,000
- (BD) Kappa Alpha Psi Playground Equipment. Provide a grant

equal to the lesser of (i) \$10,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Kappa Alpha Psi Foundation of Maryland, Inc. for the acquisition, construction, and capital equipping of playgrounds, INCLUDING THE RESURFACING OF BLACKTOP AND ACQUISITION OF BASKETBALL GOALS, at Bowie High School and Pointer Ridge Elementary School, located in Bowie. Notwithstanding Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Prince George’s County) ..... 10,000

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

**Chapter 336 of the Acts of 2008**

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

(3) ZA01 LOCAL SENATE INITIATIVES

(CH) Suitland Technology Center. Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Suitland Family and Life Development Corporation for the construction of the Suitland Technology Center, located in [Lanham] SUTLAND. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (Prince George’s County) ..... 50,000

ZA02 LOCAL HOUSE INITIATIVES

(BR) Suitland Technology Center. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Suitland Family and Life Development Corporation for the construction of the Suitland Technology Center, located in [Lanham] SUTLAND. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2012, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (Prince George’s County) ..... 100,000

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect June 1, 2010.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly and, except as provided in Section 3 of this Act, shall take effect from the date it is enacted.

Approved by the Governor, May 4, 2010.

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## Chapter 373

(Senate Bill 1019)

AN ACT concerning

**Residential Real Property – ~~Residential~~ Real Estate Settlements –  
Disclosures**

FOR the purpose of requiring a certain person who ~~has a connection with the settlement of~~ offers settlement services in connection with residential real estate transactions involving land in the State to comply with certain federal disclosure requirements; altering a certain provision relating to the payment of a commission to a certain person; repealing a certain definition; defining certain terms; and generally relating to real estate settlements.

BY repealing and reenacting, with amendments,  
Article – Real Property  
Section 14–127  
Annotated Code of Maryland  
(2003 Replacement Volume and 2009 Supplement)

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

### Article – Real Property

14–127.

- (a) (1) In this section the following words have the meanings indicated.
- ~~(2) “Certificate of qualification” has the meaning stated in § 10–101 of this article.~~
- ~~(3)~~ **(2)** “Consideration” includes:
- (i) A fee;

- (ii) Compensation;
- (iii) A gift, except promotional or advertising materials for general distribution;
- (iv) A thing of value;
- (v) A rebate;
- (vi) A loan; or
- (vii) An advancement of a commission or deposit money.

**(3) “LICENSE” HAS THE MEANING STATED IN § 10–101 OF THE INSURANCE ARTICLE.**

**(4) “RESIDENTIAL REAL ESTATE TRANSACTION” MEANS A TRANSACTION INVOLVING A FEDERALLY RELATED MORTGAGE LOAN AS DEFINED IN 12 U.S.C. § 2602 AND 24 C.F.R. 3500.2.**

**(5) “TITLE INSURANCE PRODUCER” HAS THE MEANING STATED IN § 10–101 OF THE INSURANCE ARTICLE.**

(b) This section does not prohibit:

(1) The payment of a commission to ~~an agent~~ **A TITLE INSURANCE PRODUCER** who has a ~~certificate of qualification~~ **LICENSE**; or

(2) The referral of a real estate settlement business or a professional fee arrangement between attorneys, if the referral or professional fee arrangement does not violate § 17–605 of the Business Occupations and Professions Article.

(c) **(1)** A person who has a connection with the settlement of real estate transactions involving land in the State may not pay to or receive from another any consideration to solicit, obtain, retain, or arrange real estate settlement business.

**(2) A PERSON MAY NOT BE CONSIDERED TO BE IN VIOLATION OF PARAGRAPH (1) OF THIS SUBSECTION SOLELY BECAUSE THAT PERSON IS A PARTICIPANT IN AN AFFILIATED BUSINESS ARRANGEMENT, AS DEFINED IN 12 U.S.C. § 2602, AND RECEIVES CONSIDERATION AS A RESULT OF THAT PARTICIPATION AS LONG AS THAT PERSON COMPLIES WITH 12 U.S.C. § 2607(C)(4), 24 C.F.R. 3500.15, AND APPENDIX D TO 24 C.F.R. PART 3500.**

**(D) A PERSON WHO ~~HAS A CONNECTION WITH THE SETTLEMENT OF OFFERS SETTLEMENT SERVICES IN CONNECTION WITH RESIDENTIAL REAL ESTATE TRANSACTIONS INVOLVING LAND IN THE STATE SHALL COMPLY WITH 12 U.S.C. § 2607(C)(4), 24 C.F.R. 3500.15, AND APPENDIX D TO 24 C.F.R. PART 3500, AS APPLICABLE,~~ REGARDING DISCLOSURES OF AFFILIATED BUSINESS ARRANGEMENTS, AS DEFINED IN 12 U.S.C. § 2602.**

[(d)] (E) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding \$1,000 or both.

[(e)] (F) Each violation of this section is a separate violation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 374

(House Bill 1471)

AN ACT concerning

### Residential Real Property – Real Estate Settlements – Disclosures

FOR the purpose of requiring a certain person who ~~has a connection with the settlement of~~ offers settlement services in connection with residential real estate transactions involving land in the State to comply with certain federal disclosure requirements; ~~altering a certain provision relating to the payment of a commission to a certain person; repealing a certain definition; defining certain terms;~~ and generally relating to real estate settlements.

BY repealing and reenacting, with amendments,  
 Article – Real Property  
 Section 14–127  
 Annotated Code of Maryland  
 (2003 Replacement Volume and 2009 Supplement)

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

### Article – Real Property

14–127.

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

~~(2) “Certificate of qualification” has the meaning stated in § 10–101 of this article.~~

~~(3)~~ **(2)** “Consideration” includes:

- (i) A fee;
- (ii) Compensation;
- (iii) A gift, except promotional or advertising materials for general distribution;
- (iv) A thing of value;
- (v) A rebate;
- (vi) A loan; or
- (vii) An advancement of a commission or deposit money.

**(3) “LICENSE” HAS THE MEANING STATED IN § 10–101 OF THE INSURANCE ARTICLE.**

**(4) “RESIDENTIAL REAL ESTATE TRANSACTION” MEANS A TRANSACTION INVOLVING A FEDERALLY RELATED MORTGAGE LOAN AS DEFINED IN 12 U.S.C. § 2602 AND 24 C.F.R. 3500.2.**

**(5) “TITLE INSURANCE PRODUCER” HAS THE MEANING STATED IN § 10–101 OF THE INSURANCE ARTICLE.**

(b) This section does not prohibit:

(1) The payment of a commission to ~~an agent~~ **A TITLE INSURANCE PRODUCER** who has a ~~certificate of qualification~~ **LICENSE**; or

(2) The referral of a real estate settlement business or a professional fee arrangement between attorneys, if the referral or professional fee arrangement does not violate § 17–605 of the Business Occupations and Professions Article.

(c) **(1)** A person who has a connection with the settlement of real estate transactions involving land in the State may not pay to or receive from another any consideration to solicit, obtain, retain, or arrange real estate settlement business.

**(2) A PERSON MAY NOT BE CONSIDERED TO BE IN VIOLATION OF PARAGRAPH (1) OF THIS SUBSECTION SOLELY BECAUSE THAT PERSON IS A PARTICIPANT IN AN AFFILIATED BUSINESS ARRANGEMENT, AS DEFINED IN 12 U.S.C. § 2602, AND RECEIVES CONSIDERATION AS A RESULT OF THAT PARTICIPATION AS LONG AS THAT PERSON COMPLIES WITH 12 U.S.C. § 2607(C)(4), 24 C.F.R. 3500.15, AND APPENDIX D TO 24 C.F.R. PART 3500.**

**(D) A PERSON WHO ~~HAS A CONNECTION WITH THE SETTLEMENT OF OFFERS SETTLEMENT SERVICES IN CONNECTION WITH RESIDENTIAL REAL ESTATE TRANSACTIONS INVOLVING LAND IN THE STATE SHALL COMPLY WITH 12 U.S.C. § 2607(C)(4), 24 C.F.R. 3500.15, AND APPENDIX D TO 24 C.F.R. PART 3500, AS APPLICABLE,~~ REGARDING DISCLOSURES OF AFFILIATED BUSINESS ARRANGEMENTS, AS DEFINED IN 12 U.S.C. § 2602.**

**[(d)] (E)** A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding \$1,000 or both.

**[(e)] (F)** Each violation of this section is a separate violation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 375

(Senate Bill 1086)

AN ACT concerning

**Public Safety – ~~Emergency Medical Services Board~~ Statewide Emergency Medical Services Advisory Council – Membership**

FOR the purpose of altering the membership of the ~~State Emergency Medical Services Board~~ statewide Emergency Medical Services Advisory Council by increasing the number of members who are from the ~~public at large~~ general public and by adding one member who is a helicopter pilot ~~employed by the Department of State Police within the Aviation Division;~~ making corrections to the names of certain organizations; and generally relating to the ~~State Emergency Medical Services Board~~ statewide Emergency Medical Services Advisory Council.

BY repealing and reenacting, without amendments,

Article – EducationSection 13-511(a)Annotated Code of Maryland(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

## Article – Education

Section ~~13-505~~ 13-511(b)

## Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

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

**Article – Education**~~13-505.~~

~~(a) (1) The EMS Board consists of [11] 13 members appointed by the Governor.~~

~~(2) Of the [11] 13 members:~~

~~(i) One shall be the Secretary of Health and Mental Hygiene or the Secretary's designee;~~

~~(ii) One shall be a representative of the University of Maryland, Baltimore, nominated by the Board of Regents;~~

~~(iii) One shall be the chairperson of the Advisory Council;~~

~~(iv) One shall be a physician knowledgeable in the delivery of emergency medical services;~~

~~(v) One shall be a physician experienced in the clinical care of trauma patients;~~

~~(vi) One shall be a nurse experienced in the clinical care of emergency patients;~~

~~(vii) One shall be a career firefighter, emergency medical technician, or rescue squad person knowledgeable in the delivery of emergency medical services;~~

~~(viii) One shall be a volunteer firefighter, emergency medical technician, or rescue squad person knowledgeable in the delivery of emergency medical services;~~

~~(ix) One shall be a hospital administrator knowledgeable in the management and delivery of emergency medical services; [and]~~

~~(x) ONE SHALL BE A HELICOPTER PILOT EMPLOYED BY THE DEPARTMENT OF STATE POLICE WITHIN THE AVIATION DIVISION; AND~~

~~[(x)] (xi) [Two] THREE shall be from the public at large, one of whom shall reside in a county with a population of less than 175,000.~~

~~(b) (1) Each appointed member shall have demonstrated interest or experience in the delivery of emergency medical services.~~

~~(2) In appointing members to the EMS Board, the Governor shall take into consideration the five emergency medical service regions of the State to assure a geographic balance in the Board's membership.~~

~~(3) In appointing members to the EMS Board, the Governor shall take into consideration persons:~~

~~(i) Recommended by the Advisory Council; or~~

~~(ii) Recommended by any statewide organization or association which is interested and involved in the delivery of emergency medical services.~~

~~(4) Except as authorized under this section, the Governor may not appoint to the EMS Board any other person who is:~~

~~(i) A member of the Board of Regents;~~

~~(ii) A member of the Board of Directors of the Medical System Corporation; or~~

~~(iii) An officer or full-time employee of the Medical System Corporation or the University.~~

~~(e) (1) The term of an appointed member is 4 years.~~

~~(2) At the end of a term, an appointed member continues to serve until a successor is appointed and qualifies.~~

~~(3) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.~~

~~(d) Annually, from among the members of the EMS Board:~~

~~(1) The Governor shall appoint a chairperson; and~~

~~(2) The chairperson shall appoint a vice chairperson.~~

13-511.

(a) There is a statewide Emergency Medical Services Advisory Council to advise and assist the EMS Board in performing its functions.

(b) (1) The Advisory Council consists of [29] 31 members. The members shall be appointed by the Board from a list of three qualified nominees submitted to the Board by their respective organizations or associations represented on the Council. The appointments by the Board shall be subject to the approval of the Governor.

(2) Of the [29] 31 members:

(i) One shall be a representative of the Maryland Chapter of the American College of Emergency Physicians;

(ii) One shall be a representative of [the Medical and Chirurgical Faculty of Maryland] MEDCHI, THE MARYLAND STATE MEDICAL SOCIETY;

(iii) One shall be a representative of the Maryland Hospital Association;

(iv) One shall be a representative of the Maryland State Council of the Emergency Nurses Association;

(v) One shall be a representative of the Maryland Fire and Rescue Institute;

(vi) One shall be a representative of the Maryland State Firemen's Association;

(vii) One shall be a representative of the Aviation Division of the Department of State Police;

(viii) One shall be a representative of the [Highway Safety Division] OFFICE OF TRAFFIC AND SAFETY of the Maryland Department of Transportation;

(ix) One shall be a representative from each of the five regional emergency medical services advisory councils;

(x) One shall be a representative of the Maryland trauma net;

(xi) One shall be a representative of a Maryland commercial ambulance service;

(xii) One shall be a representative of the Board of Physicians;

(xiii) One shall be a representative of the Maryland Chapter, American College of Surgeons;

(xiv) One shall be a regional medical director;

(xv) One shall be a representative of the Maryland Chapter (Chesapeake Bay), American Association of Critical Care Nurses;

(xvi) One shall be a representative of the [Maryland/District of Columbia International Association of Firefighters] **PROFESSIONAL FIRE FIGHTERS OF MARYLAND;**

(xvii) One shall be a representative of the volunteer field providers;

(xviii) One shall be a representative of the Maryland Metropolitan Fire Chiefs;

(xix) One shall be a representative of the [State Emergency Numbers Board (911)] **EMERGENCY NUMBER SYSTEMS BOARD;**

(xx) One shall be the Director of the R Adams Cowley Shock Trauma Center;

(xxi) One shall be the Director of the National Study Center;

(xxii) [Two] **THREE** shall be members of the general public, one of whom shall reside in a county with a population of less than 175,000;

(xxiii) One shall be a representative of the Committee on Pediatric Emergency Medicine of the American Academy of Pediatrics, Maryland Chapter; [and]

(xxiv) One shall be a representative of the [Maryland–District of Columbia] **MARYLAND Society of Anesthesiologists; AND**

**(XXV) ONE SHALL BE A HELICOPTER PILOT.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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**Chapter 376**

**(House Bill 497)**

AN ACT concerning

**Public Safety – ~~Emergency Medical Services Board~~ Statewide Emergency Medical Services Advisory Council – Membership**

FOR the purpose of altering the membership of the ~~State Emergency Medical Services Board~~ statewide Emergency Medical Services Advisory Council by increasing the number of members who are from the ~~public at large~~ general public and by adding one member who is a helicopter pilot ~~employed by the Department of State Police within the Aviation Division~~; making corrections to the names of certain organizations; and generally relating to the ~~State Emergency Medical Services Board~~ statewide Emergency Medical Services Advisory Council.

BY repealing and reenacting, without amendments,

Article – Education

Section 13-511(a)

Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Education

Section ~~13-505~~ 13-511(b)

Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

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

**Article – Education**

~~13-505.~~

~~(a) (1) The EMS Board consists of [11] 13 members appointed by the Governor.~~

~~(2) Of the [11] 13 members:~~

~~(i) One shall be the Secretary of Health and Mental Hygiene or the Secretary's designee;~~

~~(ii) One shall be a representative of the University of Maryland, Baltimore, nominated by the Board of Regents;~~

~~(iii) One shall be the chairperson of the Advisory Council;~~

~~(iv) One shall be a physician knowledgeable in the delivery of emergency medical services;~~

~~(v) One shall be a physician experienced in the clinical care of trauma patients;~~

~~(vi) One shall be a nurse experienced in the clinical care of emergency patients;~~

~~(vii) One shall be a career firefighter, emergency medical technician, or rescue squad person knowledgeable in the delivery of emergency medical services;~~

~~(viii) One shall be a volunteer firefighter, emergency medical technician, or rescue squad person knowledgeable in the delivery of emergency medical services;~~

~~(ix) One shall be a hospital administrator knowledgeable in the management and delivery of emergency medical services; [and]~~

~~(x) ONE SHALL BE A HELICOPTER PILOT EMPLOYED BY THE DEPARTMENT OF STATE POLICE WITHIN THE AVIATION DIVISION; AND~~

~~[(x)] (XI) [Two] THREE shall be from the public at large, one of whom shall reside in a county with a population of less than 175,000.~~

~~(b) (1) Each appointed member shall have demonstrated interest or experience in the delivery of emergency medical services.~~

~~(2) In appointing members to the EMS Board, the Governor shall take into consideration the five emergency medical service regions of the State to assure a geographic balance in the Board's membership.~~

~~(3) In appointing members to the EMS Board, the Governor shall take into consideration persons:~~

~~(i) Recommended by the Advisory Council; or~~

~~(ii) Recommended by any statewide organization or association which is interested and involved in the delivery of emergency medical services.~~

~~(4) Except as authorized under this section, the Governor may not appoint to the EMS Board any other person who is:~~

~~(i) A member of the Board of Regents;~~

~~(ii) A member of the Board of Directors of the Medical System Corporation; or~~

~~(iii) An officer or full-time employee of the Medical System Corporation or the University.~~

~~(e) (1) The term of an appointed member is 4 years.~~

~~(2) At the end of a term, an appointed member continues to serve until a successor is appointed and qualifies.~~

~~(3) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.~~

~~(d) Annually, from among the members of the EMS Board:~~

~~(1) The Governor shall appoint a chairperson; and~~

~~(2) The chairperson shall appoint a vice chairperson.~~

13-511.

(a) There is a statewide Emergency Medical Services Advisory Council to advise and assist the EMS Board in performing its functions.

(b) (1) The Advisory Council consists of [29] 31 members. The members shall be appointed by the Board from a list of three qualified nominees submitted to the Board by their respective organizations or associations represented on the Council. The appointments by the Board shall be subject to the approval of the Governor.

(2) Of the [29] 31 members:

(i) One shall be a representative of the Maryland Chapter of the American College of Emergency Physicians;

(ii) One shall be a representative of [the Medical and Chirurgical Faculty of Maryland] MEDCHI, THE MARYLAND STATE MEDICAL SOCIETY;

(iii) One shall be a representative of the Maryland Hospital Association;

(iv) One shall be a representative of the Maryland State Council of the Emergency Nurses Association;

(v) One shall be a representative of the Maryland Fire and Rescue Institute;

(vi) One shall be a representative of the Maryland State Firemen's Association;

(vii) One shall be a representative of the Aviation Division of the Department of State Police;

(viii) One shall be a representative of the [Highway Safety Division] OFFICE OF TRAFFIC AND SAFETY of the Maryland Department of Transportation;

(ix) One shall be a representative from each of the five regional emergency medical services advisory councils;

(x) One shall be a representative of the Maryland trauma net;

(xi) One shall be a representative of a Maryland commercial ambulance service;

(xii) One shall be a representative of the Board of Physicians;

(xiii) One shall be a representative of the Maryland Chapter, American College of Surgeons;

(xiv) One shall be a regional medical director;

(xv) One shall be a representative of the Maryland Chapter (Chesapeake Bay), American Association of Critical Care Nurses;

(xvi) One shall be a representative of the [Maryland/District of Columbia International Association of Firefighters] PROFESSIONAL FIRE FIGHTERS OF MARYLAND;

(xvii) One shall be a representative of the volunteer field providers;

(xviii) One shall be a representative of the Maryland Metropolitan Fire Chiefs;

(xix) One shall be a representative of the [State Emergency Numbers Board (911)] **EMERGENCY NUMBER SYSTEMS BOARD;**

(xx) One shall be the Director of the R Adams Cowley Shock Trauma Center;

(xxi) One shall be the Director of the National Study Center;

(xxii) [Two] **THREE** shall be members of the general public, one of whom shall reside in a county with a population of less than 175,000;

(xxiii) One shall be a representative of the Committee on Pediatric Emergency Medicine of the American Academy of Pediatrics, Maryland Chapter; [and]

(xxiv) One shall be a representative of the [Maryland–District of Columbia] **MARYLAND** Society of Anesthesiologists; **AND**

**(XXV) ONE SHALL BE A HELICOPTER PILOT.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 377**

**(Senate Bill 1117)**

AN ACT concerning

### **Environment – Maryland Oil Disaster Containment, Clean-Up and Contingency Fund and Oil Contaminated Site Environmental Cleanup Fund**

FOR the purpose of altering the basis for calculating a certain license fee credited to the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund; expanding the uses of the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund; extending the deadline by which the owner of a certain eligible heating oil tank may apply for reimbursement of certain costs from the Oil Contaminated Site Environmental Cleanup Fund; authorizing, in a certain fiscal year, the Secretary of the Environment to transfer up to a certain amount of money from the Oil Contaminated Site Environmental Cleanup Fund to the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund; requiring the Secretary to convene a certain work group for a certain purpose; requiring, by a certain date, the Department of the Environment to report to

certain committees of the General Assembly; and generally relating to the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund and the Oil Contaminated Site Environmental Cleanup Fund.

BY repealing and reenacting, with amendments,

Article – Environment

Section 4-411 and 4-705

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

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

### Article – Environment

4-411.

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

(2) “Barrel” means any measure of petroleum products or its by-products which consists of 42.0 U.S. gallons of liquid measure.

(3) “Fund” means the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund.

(4) “Transfer” means the offloading or onloading of oil in the State from or to any commercial vessel, barge, tank truck, tank car, pipeline, or any other means used for transporting oil.

(b) A person other than a vessel or barge may not transfer oil in the State without a license.

(c) (1) A license required under this section shall be secured from the Department of the Environment subject to the terms and conditions set forth in this section. The fee on any barrel shall be imposed only once, at the point of first transfer in the State. The license fee shall be:

(i) Credited to the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund and based on:

1. Before [July 1, 2010] **JULY 1, 2013**, a [4] **5.75** cents per barrel fee for oil transferred in the State; and

2. On or after [July 1, 2010] **JULY 1, 2013**, a ~~3~~ **4** cents per barrel fee for oil transferred in the State; and

(ii) Until July 1, 2010, based on an additional 1.75 cents per barrel fee for oil transferred in the State and credited to the Oil Contaminated Site Environmental Cleanup Fund as described in Subtitle 7 of this title.

(2) The license fee shall be paid quarterly to the Department and on receipt by the Comptroller, credited to the proper fund. The licensee shall certify to the Department, on forms as may be prescribed by the Department, the number of barrels of oil transferred by the licensee during the fee quarter no later than the last day of the month following the fee quarter. These records shall be kept confidential by the Department.

(3) When the balance in the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund from the monthly license fees paid under paragraph (1)(i) of this subsection into the Fund equals or exceeds a maximum limit of \$5,000,000, collection of subsequent monthly license fees under paragraph (1)(i) of this subsection shall be abated until:

(i) The balance in the Fund from the license fees becomes less than or equal to \$4,000,000; or

(ii) There is evidence that the balance in the Fund could be significantly reduced by the recent occurrence of a major discharge or series of discharges.

(4) If a licensee fails to remit the fee and accompanying certification required by this section, the amount of the license fee due shall be determined by the Department from information as may be available. Notice of this determination shall be given to the licensee liable for payment of the license fee. The determination shall finally and irrevocably fix the fee unless the licensee against whom it is assessed, within 30 days after receiving notice of the determination, shall apply to the Department for a hearing or unless the Department, on its own, shall redetermine the fee.

(5) The Department shall promulgate rules and regulations, establish audit procedures for the audit of licensees, and prescribe and publish forms as may be necessary to effectuate the purposes of this section.

(d) As a condition precedent to the issuance or renewal of a license, the Department shall require satisfactory evidence that the applicant has implemented or is in the process of implementing State and federal plans and regulations to control pollution related to oil, petroleum products, and their by-products and the abatement thereof when a discharge occurs.

(e) Any person who violates subsection (b) or subsection (c) of this section is guilty of a misdemeanor and upon conviction in a court of competent jurisdiction is subject to a fine not exceeding \$10,000 plus any accrued but unpaid license fees.

(f) There is a Maryland Oil Disaster Containment, Clean-Up and Contingency Fund for the Department to use to develop equipment, personnel, and plans; for contingency actions to respond to, contain, clean-up, and remove from the land and waters of the State discharges of oil, petroleum products, and their by-products into, upon, or adjacent to the waters of the State; and restore natural resources damaged by discharges. **THE FUND MAY ALSO BE USED BY THE DEPARTMENT FOR OIL-RELATED ACTIVITIES IN WATER POLLUTION CONTROL PROGRAMS.** The cost of containment, clean-up, removal, and restoration, including attorneys' fees and litigation costs, shall be reimbursed to the State by the person responsible for the discharge. The reimbursement shall be credited to the Fund. The Fund shall be limited in accordance with the limits set forth in this section. To this sum shall be credited every license fee, fine, if imposed by the circuit court for any county, and any other charge related to this subtitle. To this Fund shall be charged every expense the Department of the Environment has which relates to this section.

(g) Money in the Fund not needed currently to meet the Department of the Environment's obligations in the exercise of its responsibility under this section shall be deposited with the State Treasurer to the credit of the Fund, and may be invested as provided by law. Interest received on the investment shall be credited to the Fund. The Secretary of the Environment shall determine the proper allocation of the moneys credited to the Fund only for the following purposes:

(1) Administrative expenses, personnel expenses, and equipment costs of the Department related to the purposes of this section; ;

(2) Prevention, control, containment, clean-up, and removal of discharges into, upon, or adjacent to waters of the State of discharges of oil, petroleum products and their by-products, and the restoration of natural resources damaged by such discharges; ;

(3) Development of containment and clean-up equipment, plans, and procedures in accordance with the purposes of this section; ;

(4) Paying insurance costs by the State to extend or implement the benefits of the Fund; **AND**

**(5) EXPENSES RELATED TO OIL-RELATED ACTIVITIES IN THE DEPARTMENT'S WATER POLLUTION CONTROL PROGRAMS.**

(h) The Department shall provide the standing committees of the Maryland General Assembly with primary jurisdiction over this section with a status report on the Fund on or before October 1 of each year. The report shall include an accounting of all moneys expended for each of the purposes specified in subsection (g) of this section.

(a) The owner or operator of an underground oil storage tank eligible under § 4–704(b)(1)(ii) of this subtitle may apply to the Fund for reimbursement, until December 31, 2007, for usual, customary, and reasonable costs incurred on or after October 1, 2000 in performing site rehabilitation.

(b) The owner of a heating oil tank eligible under § 4–704(b)(1)(iii) of this subtitle may apply to the Fund no later than 6 months after rehabilitation completion for reimbursement, until [June 30, 2010] **JUNE 30, 2013**, for usual, customary, and reasonable costs incurred on or after October 1, 2000 in performing site rehabilitation.

(c) (1) Any reimbursement from the Fund for applications approved on or after July 1, 1996 is subject to:

(i) For owners or operators of six tanks or fewer, a deductible of \$7,500;

(ii) For owners or operators of more than 6 but not more than 15 tanks, a deductible of \$10,000;

(iii) For owners or operators of more than 15 but not more than 30 tanks, a deductible of \$15,000;

(iv) For owners or operators of more than 30 tanks, a deductible of \$20,000; and

(v) For residential owners of heating oil tanks, a deductible of \$500; and

(2) The maximum amount to be reimbursed from the Fund shall be:

(i) \$125,000 for underground oil storage tanks per occurrence; and

(ii) \$20,000 for heating oil tanks per occurrence.

(d) To be eligible for reimbursement from the Fund, an owner or operator shall:

(1) Certify that the discharge is not the result of a willful or deliberate act;

(2) Submit a corrective action plan, schedule, and cost estimate to the Department that shall include provisions for the environmentally sound treatment or disposal of contaminated soils that meet all federal and State requirements and standards; and

(3) Except for heating oil tanks, certify that the discharge is from a tank registered under § 4-411.1 of this title.

(e) If the owner or operator knowingly submits a false certification under subsection (e) of this section, that owner or operator is not eligible for reimbursement under this subtitle.

(f) Only expenses that are cost-effective, reasonable, and consistent with a corrective action plan approved by the Department may be eligible for reimbursement from the Fund.

(g) The cost for replacement or retrofitting of underground oil storage tanks or heating oil tanks and associated piping is not eligible for reimbursement, and the Department may not incur these costs or expend moneys from the Fund for these purposes.

SECTION 2. AND BE IT FURTHER ENACTED, That in fiscal year 2011, the Secretary of the Environment may transfer up to a maximum \$500,000 from the Oil Contaminated Site Environmental Cleanup Fund, established under § 4-704 of the Environment Article, to the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund, established under § 4-411 of the Environment Article.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) The Secretary of the Environment shall convene a work group consisting of representatives of the various sectors of the petroleum marketing industry and representatives from appropriate public and private entities to review and assess the long-term funding needs of the oil pollution programs in the State.

(b) On or before December 31, 2012, in accordance with § 2-1246 of the State Government Article, the Department of the Environment shall report the findings and recommendations of the work group to the Legislative Policy Committee, the House Environmental Matters Committee, and the Senate Finance Committee and Education, Health, and Environmental Affairs Committee.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 378

(Senate Bill 1128)

AN ACT concerning

**Board of Public Works – Licenses to Dredge and Fill on State Wetlands –  
Working Marinas**

FOR the purpose of authorizing the Board of Public Works to issue a certain license to dredge and fill on State wetlands for a certain development project at certain marinas if the development project meets certain criteria or the license will authorize dredging to improve certain navigational access; prohibiting the Board from issuing a certain license for a certain development project unless the applicant for the license has obtained certain other authorizations if required by local, State, or federal law; providing for the application of this Act; making this Act an emergency measure; and generally relating to the authority of the Board of Public Works to issue a license to dredge and fill in State wetlands.

BY adding to

Article – Environment

Section 16–106

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

**Preamble**

WHEREAS, Chapters 173 and 174 of the Acts of 2009 established a process administered by the Department of Natural Resources for granting aquaculture and submerged land leases; and

WHEREAS, It is the policy of the State to expand aquaculture opportunities to restore the Chesapeake Bay, bring back the State’s native oyster, create new jobs, and improve economic activity in the State; and

WHEREAS, Aquaculture operations may require improved access to navigable waters and development of working marinas; and

WHEREAS, To develop a marina on State wetlands a person must obtain a license to dredge or fill on State wetlands from the Board of Public Works; and

WHEREAS, The Department of the Environment has established marina siting guidelines designed to minimize impacts to the State natural resources, including water quality, from development projects at marinas; now, therefore,

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

**Article – Environment**

**16–106.**

(A) (1) THIS SECTION APPLIES TO A DEVELOPMENT PROJECT ~~AT~~ TO EXPAND A MARINA THAT HISTORICALLY OPERATED AS A WORKING MARINA FOR THE SOLE PURPOSE OF SUPPORTING AQUACULTURE OR SEAFOOD OPERATIONS.

(2) THIS SECTION DOES NOT APPLY TO A DEVELOPMENT PROJECT ~~AT~~ TO EXPAND A MARINA IF THE ~~PRINCIPAL PURPOSE OF THE DEVELOPMENT PROJECT~~ EXISTING OR EXPANDED MARINA IS USED TO ALLOW A PERSON TO MOOR, DOCK, OR STORE RECREATIONAL OR PLEASURE VESSELS ~~AT THE MARINA.~~

(B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE BOARD MAY ISSUE A LICENSE UNDER THIS TITLE FOR A DEVELOPMENT PROJECT ~~AT~~ TO EXPAND A MARINA ~~WITH A~~ THAT IS LOCATED IN AN AREA WHERE THE WATER DEPTH ~~OF IS~~ LESS THAN 4 1/2 FEET, ~~NO FLUSHING LIMIT, AND NO HISTORIC WATER QUALITY ISSUES IF:~~

~~(1)~~ THE AT MEAN LOW WATER AND ON A WATERWAY WITHOUT STRONG FLUSHING IF THE DEVELOPMENT PROJECT:

(I) ENHANCES AQUACULTURE ACTIVITIES OR SEAFOOD OPERATIONS;

(II) IS LOCATED IN A MARINA OR SEAFOOD OPERATION AT A MARINA OPERATED BY A NONPROFIT ORGANIZATION TO PROMOTE AQUACULTURE ACTIVITIES OR OYSTER RESTORATION IN THE STATE;

(III) DOES NOT ~~SIGNIFICANTLY~~ ADVERSELY IMPACT SUBMERGED AQUATIC VEGETATION; AND

(IV) WILL FURTHER THE POLICIES OF THE STATE RELATED TO AQUACULTURE; ~~OR.~~

(2) THE LICENSE ~~WILL~~ AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY AUTHORIZE DREDGING TO IMPROVE NAVIGATIONAL ACCESS TO THE MARINA OR MARINA FACILITY OPERATIONS.

(C) THE BOARD MAY NOT ISSUE A LICENSE UNDER THIS TITLE UNLESS THE APPLICANT FOR THE LICENSE HAS OBTAINED THE FOLLOWING AUTHORIZATIONS IF REQUIRED BY LOCAL, STATE, OR FEDERAL LAW:

(1) LOCAL PLANNING OR ZONING AUTHORIZATION;

(2) AN AQUACULTURE LEASE;

(3) A WATER COLUMN LEASE ISSUED BY THE BOARD OR A SUBMERGED LAND LEASE ISSUED BY THE DEPARTMENT OF NATURAL RESOURCES; AND

(4) A PERMIT ISSUED BY THE U.S. ARMY CORPS OF ENGINEERS UNDER § 404 OF THE FEDERAL CLEAN WATER ACT OR UNDER § 10 OF THE FEDERAL RIVERS AND HARBORS ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 379**

**(House Bill 1568)**

AN ACT concerning

### **Board of Public Works – Licenses to Dredge and Fill on State Wetlands – Working Marinas**

FOR the purpose of authorizing the Board of Public Works to issue a certain license to dredge and fill on State wetlands for a certain development project at certain marinas if the development project meets certain criteria or the license will authorize dredging to improve certain navigational access; prohibiting the Board from issuing a certain license for a certain development project unless the applicant for the license has obtained certain other authorizations if required by local, State, or federal law; providing for the application of this Act; making this Act an emergency measure; and generally relating to the authority of the Board of Public Works to issue a license to dredge and fill in State wetlands.

BY adding to

Article – Environment

Section 16–106

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

Preamble

WHEREAS, Chapters 173 and 174 of the Acts of 2009 established a process administered by the Department of Natural Resources for granting aquaculture and submerged land leases; and

WHEREAS, It is the policy of the State to expand aquaculture opportunities to restore the Chesapeake Bay, bring back the State's native oyster, create new jobs, and improve economic activity in the State; and

WHEREAS, Aquaculture operations may require improved access to navigable waters and development of working marinas; and

WHEREAS, To develop a marina on State wetlands a person must obtain a license to dredge or fill on State wetlands from the Board of Public Works; and

WHEREAS, The Department of the Environment has established marina siting guidelines designed to minimize impacts to the State natural resources, including water quality, from development projects at marinas; now, therefore,

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

#### Article – Environment

16-106.

(A) (1) **THIS SECTION APPLIES TO A DEVELOPMENT PROJECT ~~AT TO~~ EXPAND A MARINA THAT HISTORICALLY OPERATED AS A WORKING MARINA FOR THE SOLE PURPOSE OF SUPPORTING AQUACULTURE OR SEAFOOD OPERATIONS.**

(2) **THIS SECTION DOES NOT APPLY TO A DEVELOPMENT PROJECT ~~AT TO EXPAND~~ A MARINA IF THE ~~PRINCIPAL PURPOSE OF THE DEVELOPMENT PROJECT~~ EXISTING OR EXPANDED MARINA IS USED TO ALLOW A PERSON TO MOOR, DOCK, OR STORE RECREATIONAL OR PLEASURE VESSELS ~~AT THE MARINA.~~**

(B) (1) **EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE BOARD MAY ISSUE A LICENSE UNDER THIS TITLE FOR A DEVELOPMENT PROJECT ~~AT TO EXPAND~~ A MARINA ~~WITH A~~ THAT IS LOCATED IN AN AREA WHERE THE WATER DEPTH ~~OF IS~~ LESS THAN 4 1/2 FEET, ~~NO FLUSHING LIMIT, AND NO HISTORIC WATER QUALITY ISSUES IF:~~**

(1) **THE ~~AT~~ MEAN LOW WATER AND ON A WATERWAY WITHOUT STRONG FLUSHING IF THE DEVELOPMENT PROJECT:**

(I) ENHANCES AQUACULTURE ACTIVITIES OR SEAFOOD OPERATIONS;

(II) IS LOCATED IN A MARINA OR SEAFOOD OPERATION AT A MARINA OPERATED BY A NONPROFIT ORGANIZATION TO PROMOTE AQUACULTURE ACTIVITIES OR OYSTER RESTORATION IN THE STATE;

(III) DOES NOT ~~SIGNIFICANTLY~~ ADVERSELY IMPACT SUBMERGED AQUATIC VEGETATION; AND

(IV) WILL FURTHER THE POLICIES OF THE STATE RELATED TO AQUACULTURE;~~OR.~~

(2) THE LICENSE ~~WILL~~ AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY AUTHORIZE DREDGING TO IMPROVE NAVIGATIONAL ACCESS TO THE MARINA OR MARINA FACILITY OPERATIONS.

(C) THE BOARD MAY NOT ISSUE A LICENSE UNDER THIS TITLE UNLESS THE APPLICANT FOR THE LICENSE HAS OBTAINED THE FOLLOWING AUTHORIZATIONS IF REQUIRED BY LOCAL, STATE, OR FEDERAL LAW:

(1) LOCAL PLANNING OR ZONING AUTHORIZATION;

(2) AN AQUACULTURE LEASE;

(3) A WATER COLUMN LEASE ISSUED BY THE BOARD OR A SUBMERGED LAND LEASE ISSUED BY THE DEPARTMENT OF NATURAL RESOURCES; AND

(4) A PERMIT ISSUED BY THE U.S. ARMY CORPS OF ENGINEERS UNDER § 404 OF THE FEDERAL CLEAN WATER ACT OR UNDER § 10 OF THE FEDERAL RIVERS AND HARBORS ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 4, 2010.

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**Chapter 380****(House Bill 6)**

AN ACT concerning

**Property Tax – Notice – 60-Day Appeal**

FOR the purpose of requiring a contract for the sale of certain real property to contain a certain notice that the new owner of property transferred during a certain period of time may submit a certain appeal on or before a certain number of days after the transfer; and generally relating to a requirement that a contract for the sale of certain real property contain a certain notice.

BY adding to

Article – Real Property

Section 10–708

Annotated Code of Maryland

(2003 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,

Article – Tax – Property

Section 14–502(a)(2)

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

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

**Article – Real Property****10–708.**

**(A) A CONTRACT OF SALE ~~OF~~ FOR SINGLE FAMILY RESIDENTIAL REAL PROPERTY IMPROVED BY FOUR OR FEWER SINGLE FAMILY UNITS SHALL CONTAIN NOTICE OF THE RIGHT TO APPEAL PROVIDED UNDER § 14–502(A)(2) OF THE TAX – PROPERTY ARTICLE.**

**(B) THE NOTICE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE IN SUBSTANTIALLY THE FOLLOWING FORM:**

**“IF ANY REAL PROPERTY IS TRANSFERRED AFTER JANUARY 1 AND BEFORE THE BEGINNING OF THE NEXT TAXABLE YEAR TO A NEW OWNER, THE NEW OWNER MAY SUBMIT A WRITTEN APPEAL AS TO A VALUE OR CLASSIFICATION ON OR BEFORE 60 DAYS AFTER THE DATE OF THE TRANSFER.”**

**Article – Tax – Property**

14–502.

(a) (2) If any real property is transferred after January 1 and before the beginning of the next taxable year to a new owner, the new owner may submit a written appeal as to a value or classification on or before 60 days after the date of the transfer.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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**Chapter 381****(House Bill 45)**

AN ACT concerning

**Dorchester County – Bay Restoration Fee – Lien Against Property**

FOR the purpose of establishing in Dorchester County that an unpaid Bay Restoration Fee is a lien against the property ~~on which served by~~ *served by* the wastewater facility, onsite sewage disposal system, or holding tank ~~is located~~; requiring a notice of lien to be recorded in the land records of Dorchester County; and generally relating to the Bay Restoration Fee.

BY repealing and reenacting, with amendments,  
Article – Environment  
Section 9–1605.2(d)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 Supplement)

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

**Article – Environment**

9–1605.2.

(d) (1) Subject to the approval of the Administration, a local government or a billing authority for a water or wastewater facility may establish a program to exempt from the requirements of this section a residential dwelling able to demonstrate substantial financial hardship as a result of the restoration fee.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the Bay Restoration Fee shall be collected by the local government or the billing authority for the water or wastewater facility, as appropriate, on behalf of the State.

(ii) For a wastewater facility without a billing authority, the Comptroller may collect the restoration fee from the facility owner.

(3) A local government, billing authority for a water or wastewater facility, or any other authorized collecting agency:

(i) May use all of its existing procedures and authority for collecting a water or sewer bill, an onsite sewage disposal system bill, or a holding tank bill in order to enforce the collection of the Bay Restoration Fee; and

(ii) Shall establish a segregated account for the deposit of funds collected under this section.

**(4) (I) IN DORCHESTER COUNTY, AN UNPAID BAY RESTORATION FEE SHALL BE A LIEN AGAINST THE PROPERTY ~~ON WHICH THE~~ SERVED BY A WASTEWATER FACILITY, ONSITE SEWAGE DISPOSAL SYSTEM, OR HOLDING TANK ~~IS LOCATED~~.**

**(II) A NOTICE OF LIEN SHALL BE RECORDED IN THE LAND RECORDS OF DORCHESTER COUNTY.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 382

### (House Bill 62)

AN ACT concerning

#### **Environment – Payment of Cost Differential – Nitrogen Removal Technology**

FOR the purpose of ~~repealing a certain contingency on the requirement~~ requiring that the Department of the Environment pay for certain costs associated with the installation of on-site sewage disposal systems utilizing nitrogen removal technology with money from the Bay Restoration Fund under certain circumstances in certain calendar years; ~~requiring the Department to make~~

~~payment with money from certain General Fund appropriations if certain funding is unavailable; giving priority for certain funding to certain homeowners installing on-site sewage disposal systems utilizing nitrogen removal technology~~ declaring the intent of the General Assembly; and generally relating to on-site sewage disposal systems utilizing nitrogen removal technology.

BY repealing and reenacting, without amendments,

Article – Environment

Section 9–1108(a)

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

(As enacted by Chapter 280 of the Acts of the General Assembly of 2009)

BY repealing and reenacting, without amendments,

Article – Environment

Section 9–1108(b) ~~and 9–1605.2(h)(1) and (2)~~

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Environment

Section 9–1108(c) ~~and 9–1605.2(h)(3)(i)~~

Annotated Code of Maryland

(2007 Replacement Volume and 2009 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) (1) In this section the following words have the meanings indicated.

(2) “Nitrogen removal technology” means the best available technology for the removal of nitrogen.

(3) “On-site sewage disposal system” means a sewage treatment unit, collection system, disposal area, and related appurtenances.

(b) A person may not:

(1) Install, or have installed, on property a person owns in the State in the Chesapeake and Atlantic Coastal Bays Critical Area, an on-site sewage disposal system to service a newly constructed building, unless the on-site sewage disposal system utilizes nitrogen removal technology; or

(2) Replace or have replaced, an existing on-site sewage disposal system on property a person owns in the State in the Chesapeake and Atlantic Coastal Bays Critical Area, unless the replacement on-site sewage disposal system utilizes nitrogen removal technology.

(c) (1) ~~In~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND IN accordance with § 9-1605.2(h) of this title, the Department shall assist homeowners ~~in~~ BY paying the cost difference between a conventional on-site sewage disposal system and a system that utilizes nitrogen removal technology with money from the Bay Restoration Fund~~;~~ if sufficient funds are available.

~~(2) IF SUFFICIENT FUNDS ARE NOT AVAILABLE FROM THE BAY RESTORATION FUND, THE DEPARTMENT SHALL PAY FOR THE COST DIFFERENCE BETWEEN A CONVENTIONAL ON-SITE SEWAGE DISPOSAL SYSTEM AND A SYSTEM THAT UTILIZES NITROGEN REMOVAL TECHNOLOGY WITH MONEY FROM THE DEPARTMENT'S GENERAL FUND APPROPRIATION.~~

(2) IN CALENDAR YEARS 2010, 2011, AND 2012, THE DEPARTMENT SHALL ASSIST HOMEOWNERS BY PAYING 100% OF THE COST DIFFERENCE BETWEEN A CONVENTIONAL ON-SITE SEWAGE DISPOSAL SYSTEM AND A SYSTEM THAT UTILIZES NITROGEN REMOVAL TECHNOLOGY WITH MONEY FROM THE BAY RESTORATION FUND, IF THE HOMEOWNER:

(I) IS REQUIRED UNDER SUBSECTION (B)(2) OF THIS SECTION TO REPLACE AN EXISTING ON-SITE SEWAGE DISPOSAL SYSTEM WITH AN ON-SITE SEWAGE DISPOSAL SYSTEM THAT UTILIZES NITROGEN REMOVAL TECHNOLOGY; AND

(II) HAS A FAILING ON-SITE SEWAGE DISPOSAL SYSTEM.

~~9-1605.2.~~

~~(h) (1) With regard to the funds collected under subsection (b)(1)(i), from users of an onsite sewage disposal system or holding tank that receive a water bill, (ii), and (iii) of this section, beginning in fiscal year 2006, the Comptroller shall:~~

~~(i) Establish a separate account within the Bay Restoration Fund; and~~

~~(ii) Disburse the funds as provided under paragraph (2) of this subsection.~~

~~(2) The Comptroller shall:~~

~~(i) Deposit 60% of the funds in the separate account to be used for:~~

~~1. Subject to paragraph (3) of this subsection, with priority first given to failing systems and holding tanks located in the Chesapeake and Atlantic Coastal Bays Critical Area and then to failing systems that the Department determines are a threat to public health or water quality, grants or loans for up to 100% of:~~

~~A. The costs attributable to upgrading an onsite sewage disposal system to the best available technology for the removal of nitrogen;~~

~~B. The cost difference between a conventional onsite sewage disposal system and a system that utilizes the best available technology for the removal of nitrogen;~~

~~C. The cost of repairing or replacing a failing onsite sewage disposal system with a system that uses the best available technology for nitrogen removal; or~~

~~D. The cost, up to the sum of the costs authorized under item 1B of this item for each individual system, of replacing multiple onsite sewage disposal systems located in the same community with a new community sewerage system that is owned by a local government and that meets enhanced nutrient removal standards.~~

~~2. The reasonable costs of the Department, not to exceed 8% of the funds deposited into the separate account, to:~~

~~A. Implement an education, outreach, and upgrade program to advise owners of onsite sewage disposal systems and holding tanks on the proper maintenance of the systems and tanks and the availability of grants and loans under item 1 of this item;~~

~~B. Review and approve the design and construction of onsite sewage disposal system or holding tank upgrades;~~

~~C. Issue grants or loans as provided under item 1 of this item; and~~

~~D. Provide technical support for owners of upgraded onsite sewage disposal systems or holding tanks to operate and maintain the upgraded systems; and~~

~~(ii) Transfer 40% of the funds to the Maryland Agriculture Water Quality Cost Share Program in the Department of Agriculture in order to fund cover crop activities.~~

~~(3) (i) Funding for the costs identified in paragraph (2)(i)1 of this subsection shall be provided in the following order of priority:~~

~~1. OWNERS REQUIRED UNDER § 9-1108 OF THIS TITLE TO INSTALL ON-SITE SEWAGE DISPOSAL SYSTEMS UTILIZING NITROGEN REMOVAL TECHNOLOGY;~~

~~2. For owners of all levels of income, the costs identified in paragraph (2)(i)1A and B of this subsection; and~~

~~[2.] 3. For low income owners, as defined by the Department, the costs identified in paragraph (2)(i)1C of this subsection:~~

~~A. First, for best available technologies for nitrogen removal; and~~

~~B. Second, for other wastewater treatment systems.~~

SECTION 2. AND BE IT FURTHER ENACTED, That, except as provided by § 9-1108(c)(2) of the Environment Article, as enacted by Section 1 of this Act, it is the intent of the General Assembly that the Department of the Environment may use an economic means test to determine the financial assistance awarded to a homeowner for the cost difference between a conventional on-site sewage disposal system and a system that utilizes nitrogen removal technology.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 383

### (House Bill 72)

AN ACT concerning

#### Department of the Environment – Oil and Gas Production Permits – Fees

FOR the purpose of requiring the Department of the Environment to establish and collect certain fees; requiring the Department to consider certain factors in establishing and reviewing the fees; establishing an Oil and Gas Fund in the Department for the collection of certain oil and gas permit and production fees; providing that the Fund is a special, nonlapsing fund; requiring certain fees to

be paid into the Fund; requiring the Department to use the Fund for certain purposes; requiring the Department annually to submit a certain report; requiring the Department to adopt certain regulations; defining certain terms; and generally relating to oil and gas development and production.

BY repealing and reenacting, with amendments,  
Article – Environment  
Section 14–102 and 14–105  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,  
Article – Environment  
Section 14–104  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 Supplement)

BY adding to  
Article – Environment  
Section 14–122 through 14–125  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 Supplement)

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

### **Article – Environment**

14–102.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Coalbed methane” means methane and any other gaseous substance occurring in or produced from a coal seam or related, associated, or adjacent rock materials.
- (c) “County” includes Baltimore City unless otherwise indicated.
- (d) “Department” means the Department of the Environment.
- (e) “Field” means the general area underlaid by one or more pools.
- (F) “FUND” MEANS THE OIL AND GAS FUND.**

~~(G)~~ **(G)** “Gas” means all natural gas and other fluid hydrocarbons, not defined as oil, which are produced from a natural reservoir.

~~(g)~~ **(H)** “Oil” means crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the wellhead in liquid form, except liquid hydrocarbons known as distillate or condensate recovered or extracted from gas.

~~(h)~~ **(I)** “Owner” means the person who has the right to drill into and produce from a pool, or to store in a pool, and appropriate the oil or gas the person produces or stores either for the person or others.

~~(i)~~ **(J)** “Person” means any individual, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind.

~~(j)~~ **(K)** “Pool” means an underground reservoir containing a common accumulation of oil, gas, or both.

~~(k)~~ **(L)** “Producer” means the owner of a well capable of producing oil, gas, or both.

~~(l)~~ **(M)** “Product” means any commodity produced in its natural state by an oil or gas well.

~~(m)~~ **(N)** (1) **“PRODUCTION” MEANS THE ACT OR PROCESS OF PRODUCING OIL OR GAS FROM A NATURAL RESERVOIR.**

**(2) “PRODUCTION” DOES NOT INCLUDE THE SALE OR DISTRIBUTION OF OIL OR GAS.**

[(m)] ~~(n)~~ **(O)** (1) “Underground storage” means the storing of gas or oil in a geological stratum beneath the surface of the earth.

(2) “Underground storage” includes the injection of gas or oil into and withdrawal from an underground storage reservoir and any other operation necessary for or convenient to the storage of gas or of oil.

[(n)] ~~(o)~~ **(P)** “Underground storage reservoir” means the stratum and subsurface area that are used or are to be used for or in connection with the underground storage of gas or of oil.

14–104.

(a) A person may not drill any well for the exploration, production, or underground storage of gas or oil in the State without obtaining a permit from the Department of the Environment under the terms and conditions and on the forms the Department prescribes.

(b) (1) The Department shall require an applicant to submit an environmental assessment for the purpose of evaluating an application.

(2) The Department shall coordinate with the Department of Natural Resources in its evaluation of the environmental assessment.

(c) The permit serves as the permit required under the provisions of Title 9, Subtitle 13 of this article, dealing with well drillers.

(d) A person may not dispose of any product of a gas or oil well without the necessary permits issued by the Department.

14–105.

(a) An applicant for a permit to drill a well under § 14–104 of this subtitle shall submit an application in a manner satisfactory to the Department.

**(B) THE DEPARTMENT SHALL ESTABLISH AND COLLECT FEES FOR:**

**(1) THE ISSUANCE OF A PERMIT TO DRILL A WELL UNDER § 14–104 OF THIS SUBTITLE;**

**(2) THE RENEWAL OF A PERMIT TO DRILL A WELL UNDER § 14–104 OF THIS SUBTITLE; AND**

**(3) THE PRODUCTION OF OIL AND GAS WELLS INSTALLED AFTER OCTOBER 1, 2010.**

**(C) THE FEES IMPOSED UNDER SUBSECTION (B) OF THIS SECTION SHALL BE SET BY THE DEPARTMENT AT THE RATE NECESSARY TO IMPLEMENT THE PURPOSES SET FORTH IN § 14–123 OF THIS SUBTITLE.**

**(D) IN ANY FISCAL YEAR, IF THE FEE SCHEDULE ESTABLISHED BY THE DEPARTMENT GENERATES REVENUE THAT EXCEEDS THE AMOUNT NECESSARY TO OPERATE A REGULATORY PROGRAM TO OVERSEE THE DRILLING OF OIL AND GAS WELLS, THE DEPARTMENT SHALL REDUCE THE FEES IN THE FOLLOWING FISCAL YEAR.**

**(E) THE FEES COLLECTED BY THE DEPARTMENT UNDER THIS SECTION SHALL BE DEPOSITED IN THE OIL AND GAS FUND ESTABLISHED UNDER § 14–122 OF THIS SUBTITLE.**

**[(b)] ~~(E)~~ (F)** The Department shall provide public notice, public informational hearings, and judicial review in accordance with the provisions of § 5–204 of this article.

## 14-122.

(A) THERE IS AN OIL AND GAS FUND.

(B) THE FUND ~~SHALL CONSIST~~ CONSISTS OF:

(1) FEES COLLECTED BY THE DEPARTMENT UNDER § 14-105 OF THIS SUBTITLE;

(2) FUNDS APPROPRIATED BY THE GENERAL ASSEMBLY FOR DEPOSIT TO THE FUND;

(3) FINES AND BOND FORFEITURES IN EXCESS OF FUNDS NEEDED COLLECTED BY THE DEPARTMENT IN ACCORDANCE WITH THIS SUBTITLE THAT EXCEED THE AMOUNT NECESSARY TO RESTORE A SITE; AND

(4) ANY ADDITIONAL MONEY MADE AVAILABLE FROM ANY SOURCES, PUBLIC OR PRIVATE, FOR THE PURPOSES FOR WHICH THE FUND HAS BEEN ESTABLISHED.

(C) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) NOTWITHSTANDING ANY LAW TO THE CONTRARY, UNUSED MONEY IN THE FUND MAY NOT REVERT TO THE GENERAL FUND.

(D) THE FUND SHALL BE MAINTAINED AND ADMINISTERED BY THE DEPARTMENT IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE AND ANY REGULATIONS THE DEPARTMENT ADOPTS.

## 14-123.

THE DEPARTMENT SHALL USE MONEY IN THE FUND SOLELY TO ADMINISTER AND IMPLEMENT PROGRAMS TO OVERSEE THE DRILLING, DEVELOPMENT, PRODUCTION, AND STORAGE OF OIL AND GAS WELLS, AND OTHER REQUIREMENTS RELATED TO THE DRILLING OF OIL AND GAS WELLS, INCLUDING ALL COSTS INCURRED BY THE STATE TO:

(1) REVIEW, INSPECT, AND EVALUATE MONITORING DATA, APPLICATIONS, LICENSES, PERMITS, ANALYSES, AND REPORTS;

(2) PERFORM AND OVERSEE ASSESSMENTS, INVESTIGATIONS, AND RESEARCH;

**(3) CONDUCT PERMITTING, INSPECTION, AND COMPLIANCE ACTIVITIES; AND**

**(4) DEVELOP, ADOPT, AND IMPLEMENT REGULATIONS, PROGRAMS, OR INITIATIVES TO ADDRESS RISKS TO PUBLIC SAFETY, HUMAN HEALTH, AND THE ENVIRONMENT RELATED TO THE DRILLING AND DEVELOPMENT OF OIL AND GAS WELLS, INCLUDING THE METHOD OF HYDROFRACTURING.**

**14-124.**

**BEGINNING NOVEMBER 1, 2010, THE DEPARTMENT SHALL REPORT EACH YEAR TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON:**

**(1) THE STATUS OF THE FUND;**

**(2) REVENUES OF AND EXPENDITURES FROM THE FUND;**

**(3) THE EFFICIENCY OF THE REGULATORY PROGRAM UNDER THIS SUBTITLE;**

**(4) COMPLIANCE RATES WITHIN THE REGULATORY PROGRAM UNDER THIS SUBTITLE; AND**

**(5) BASED ON THE FACTORS LISTED IN ITEMS (1) THROUGH (4) OF THIS SECTION, THE NECESSITY TO REVIEW AND ADJUST THE FEE IN ACCORDANCE WITH § 14-105(D) OF THIS SUBTITLE.**

**14-125.**

**THE DEPARTMENT SHALL ADOPT REGULATIONS:**

**(1) TO CARRY OUT THIS SUBTITLE; AND**

**(2) TO ESTABLISH PROCEDURES FOR IMPOSING AND COLLECTING THE FEES ESTABLISHED IN ACCORDANCE WITH § 14-105 OF THIS SUBTITLE.**

**SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect July 1, 2010.

**Approved by the Governor, May 4, 2010.**

**Chapter 384****(House Bill 73)**

AN ACT concerning

**Environment – Water Quality Revolving Loan Fund – Use of Funds**

FOR the purpose of authorizing the use of the Maryland Water Quality Revolving Loan Fund to provide assistance in the form of forgiveness of principal or other forms of financial assistance, as authorized or required by federal law; and generally relating to the use of revolving loan funds in the Department of the Environment.

BY repealing and reenacting, without amendments,  
Article – Environment  
Section 9–1605(a)(1)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
Article – Environment  
Section 9–1605(d)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 Supplement)

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

**Article – Environment**

9–1605.

(a) (1) There is a Maryland Water Quality Revolving Loan Fund. The Water Quality Fund shall be maintained and administered by the Administration in accordance with the provisions of this subtitle and such rules or program directives as the Secretary or the Board may from time to time prescribe.

(d) Amounts in the Water Quality Fund may be used only:

(1) To make loans, on the condition that:

(i) The loans are made at or below market interest rates, including interest free loans, at terms not to exceed 20 years;

(ii) Annual principal and interest payments will commence not later than 1 year after completion of any wastewater facility and all loans will be fully amortized not later than 20 years after project completion;

(iii) The local government borrower will establish a dedicated source of revenue for repayment of loans;

(iv) In the case of a wastewater facility owned by a borrower other than a local government, the borrower will provide adequate security for repayment of loans; and

(v) The Water Quality Fund will be credited with all payments of principal and interest on all loans;

(2) To buy or refinance debt obligations of local governments at or below market rates, if such debt obligations were incurred after March 7, 1985;

(3) To guarantee, or purchase insurance for, bonds, notes, or other evidences of obligation issued by a local government for the purpose of financing all or a portion of the cost of a wastewater facility, if such action would improve credit market access or reduce interest rates;

(4) As a source of revenue or security for the payment of principal and interest on bonds issued by the Administration if the proceeds of the sale of such bonds will be deposited in the Water Quality Fund;

(5) To earn interest on Water Quality Fund accounts;

(6) To establish a linked deposit program to promote loans for controlling nonpoint sources of pollution and protecting the quality of the waters of the State;

(7) For the reasonable costs of administering the Water Quality Fund and conducting activities under Title VI of the Federal Water Pollution Control Act;

(8) For any other purpose authorized by Title VI of the Federal Water Pollution Control Act or § 302 of the federal Safe Drinking Water Act; and

(9) To provide financial assistance in the form of grants, negative interest loans, forgiveness of principal, subsidized interest rates, and any other form of financial assistance as authorized or required by [the]:

**(I) THE American Recovery and Reinvestment Act of 2009, as may be amended and supplemented;**

**CONTROL ACT;** (II) **TITLE VI OF THE FEDERAL WATER POLLUTION**

**OR** (III) **§ 302 OF THE FEDERAL SAFE DRINKING WATER ACT;**

(IV) **FEDERAL APPROPRIATIONS OR AUTHORIZATION ACTS.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 385**

### **(House Bill 79)**

AN ACT concerning

#### **Commercial Law – Credit Services Businesses – Limitation on Fees**

FOR the purpose of prohibiting a credit services business, its employees, and certain independent contractors from charging or receiving any money or other valuable consideration in connection with an extension of credit that, when combined with any interest charged on the extension of credit, would exceed a certain interest rate; and generally relating to the regulation of credit services businesses.

BY repealing and reenacting, with amendments,

Article – Commercial Law

Section 14–1902

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

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

#### **Article – Commercial Law**

14–1902.

A credit services business, its employees, and independent contractors who sell or attempt to sell the services of a credit services business shall not:

(1) Receive any money or other valuable consideration from the consumer, unless the credit services business has secured from the Commissioner a license under Title 11, Subtitle 3 of the Financial Institutions Article;

(2) Receive any money or other valuable consideration solely for referral of the consumer to a retail seller or to any other credit grantor who will or may extend credit to the consumer, if the credit extended to the consumer is substantially the same terms as those available to the general public;

(3) Make, or assist or advise any consumer to make, any statement or other representation that is false or misleading, or which by the exercise of reasonable care should be known to be false or misleading, to a consumer reporting agency, government agency, or person to whom the consumer applies or intends to apply for an extension of credit, regarding a consumer's creditworthiness, credit standing, credit capacity, or true identity;

(4) Make or use any false or misleading representations in the offer or sale of the services of a credit services business;

(5) Engage, directly or indirectly, in any act, practice, or course of business which operates as a fraud or deception on any person in connection with the offer or sale of the services of a credit services business;

(6) Charge or receive any money or other valuable consideration prior to full and complete performance of the services that the credit services business has agreed to perform for or on behalf of the consumer;

**(7) CHARGE OR RECEIVE ANY MONEY OR OTHER VALUABLE CONSIDERATION IN CONNECTION WITH AN EXTENSION OF CREDIT THAT, WHEN COMBINED WITH ANY INTEREST CHARGED ON THE EXTENSION OF CREDIT, WOULD EXCEED THE INTEREST RATE PERMITTED FOR THE EXTENSION OF CREDIT UNDER THE APPLICABLE TITLE OF THIS ARTICLE;**

**[(7)] (8)** Create, assist a consumer to create, or provide a consumer with information on how to create, a new consumer report, credit file, or credit record by obtaining and using a different name, address, telephone number, Social Security number, or employer tax identification number; or

**[(8)] (9)** Assist a consumer to obtain an extension of credit at a rate of interest which, except for federal preemption of State law, would be prohibited under Title 12 of this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

**Chapter 386****(House Bill 83)**

AN ACT concerning

**Department of Labor, Licensing, and Regulation – State Real Estate  
Commission – Continuing Education**

FOR the purpose of altering ~~certain continuing education requirements for a licensee of the State Real Estate Commission who possesses a certain graduate degree~~ the circumstances under which certain licensees of the State Real Estate Commission are required to complete a certain number of clock hours of continuing education; requiring certain licensees to complete certain requirements in certain licensing periods; clarifying the continuing education requirements for a licensee holding a license from another state; altering the criteria for the Commission to use in selecting subject matter for continuing education courses; ~~authorizing~~ requiring the Commission to ~~set certain fees for~~ require certain providers of continuing education courses to ~~pay a certain fee of~~ a certain amount; repealing certain obsolete provisions; requiring certain licensees to take certain courses as a condition of licensure renewal on or after a certain date; and generally relating to continuing education for licensees of the State Real Estate Commission.

BY repealing and reenacting, with amendments,  
Article – Business Occupations and Professions  
Section 17–315  
Annotated Code of Maryland  
(2004 Replacement Volume and 2009 Supplement)

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

**Article – Business Occupations and Professions**

17–315.

(a) (1) To qualify for renewal of a license under this subtitle, a licensee shall complete at least 15 clock hours of continuing education instruction, as provided in subsection (b) of this section, during the preceding 2–year term.

[(2) Notwithstanding paragraph (1) of this subsection, to qualify for renewal of a license under this subtitle:

(i) a licensee who has been licensed 10 years or more on the date of renewal shall complete:

1. at least 6 clock hours of continuing education instruction, as provided in subsection (b) of this section, if the licensee renews the license on or before October 1, 2006;

2. at least 9 clock hours of continuing education instruction, as provided in subsection (b) of this section, if the licensee renews the license on or before October 1, 2008; or

3. at least 15 clock hours of continuing education instruction, as provided in subsection (b) of this section, if the licensee renews the license on or after October 2, 2008; or]

**[(ii) (2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, a licensee shall complete at least ~~{7.5}~~ ~~10.5~~ clock hours of continuing education instruction as provided for in subsection (b) of this section if the licensee:**

**[1.] (I) 1.** possesses a graduate degree in law from an accredited law school; or

**[2.] ~~(H)~~ 2.** possesses a graduate degree in real estate from an accredited college or university; **AND**

**(II) IS NOT A BROKER, AN ASSOCIATE BROKER, OR A SALESPERSON DESIGNATED AS A BRANCH OFFICE MANAGER OR TEAM LEADER.**

(3) For a licensee who provides real estate brokerage services solely in connection with nonresidential real estate, of the clock hours required under paragraph [(2)(i)] **(1)** of this subsection, 1.5 clock hours may be satisfied by a course regarding fair housing laws and regulations or the federal Americans with Disabilities Act.

**(4) A LICENSEE WHO IS REQUIRED TO COMPLETE CONTINUING EDUCATION INSTRUCTION UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL COMPLETE THE REQUIREMENTS OF SUBSECTION (B)(2)(II) AND (V) OF THIS SECTION IN ALTERNATE LICENSING PERIODS.**

~~(4)~~ **(5)** A licensee holding a license from another state must complete at least [15 clock hours] **THE NUMBER OF CLOCK HOURS** of continuing education instruction **REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION** during each 2-year license term and may substitute clock hours of continuing education instruction earned in another state, if those clock hours:

(i) are approved as real estate continuing education in that state; and

(ii) meet the distribution requirements of subsection (b)(2) of this section.

~~(5)~~ **(6)** The Commission shall grant the substitution of clock hours in paragraph ~~(4)~~ **(5)** of this subsection only if the other state permits the substitution of clock hours of continuing education instruction approved by the Commission for a licensee of this State.

(b) (1) The Commission shall approve the form, substance, and, as provided under paragraph (2) of this subsection, subject matter of all continuing education courses.

(2) The subject matter approved by the Commission shall:

(i) relate to real estate or to a subject matter intended to assist a licensee in providing real estate brokerage services to the public in a more efficient and effective manner, provided that the subject matter is related to helping the public buy or sell real estate;

(ii) every 2 years, include at least one 3 clock hour course that outlines relevant changes that have occurred in federal, State, or local laws and regulations, or any combination of those laws and regulations;

(iii) every 2 years, include at least one 1.5 clock hour course that outlines federal, State, and local fair housing laws and regulations, including fair housing advertising; [and]

(iv) every 2 years, include at least one 3 clock hour ethics course that includes the Maryland Code of Ethics and a discussion of the practices of flipping and predatory lending;

**(V) EVERY 4 YEARS, INCLUDE AT LEAST ONE 3 CLOCK HOUR COURSE THAT INCLUDES THE PRINCIPLES OF AGENCY AND AGENCY DISCLOSURE; AND**

**(VI) EVERY 4 YEARS FOR THE RENEWAL OF A REAL ESTATE BROKER LICENSE AND THE RENEWAL OF THE LICENSE OF AN INDIVIDUAL DESIGNATED AS A BRANCH OFFICE MANAGER OR A TEAM LEADER, INCLUDE AT LEAST ONE 3 CLOCK HOUR COURSE THAT INCLUDES THE REQUIREMENTS OF BROKER SUPERVISION.**

(3) The requirement of paragraph (2)(iii) of this subsection does not apply to a licensee who provides real estate brokerage services solely in connection with nonresidential real estate.

(4) To be acceptable for credit as a continuing education course under this section, the course shall cover 1 or more topics approved by the Commission.

(c) (1) Continuing education courses may be conducted by:

- (i) the Maryland Association of Realtors or its member boards;
- (ii) the Real Estate Brokers of Baltimore, Inc.;
- (iii) any similar professional association; or
- (iv) an educational institution approved by the Commission.

(2) Continuing education courses shall be taught by a qualified instructor who is experienced in the real estate industry.

(3) On or before January 1, 2003, the Commission shall adopt regulations that provide for the conduct of continuing education instruction courses by:

- (i) remote access satellite;
- (ii) closed-circuit video;
- (iii) computer, including transmission over the Internet and the World Wide Web;
- (iv) home study; and
- (v) any other delivery system approved by the Commission.

(d) If feasible, continuing education courses shall be offered at reasonable intervals in each county and in each major geographic area of the larger counties.

(e) (1) On completion of a continuing education course by a licensee, the entity that conducted the course or the instructor shall issue to the licensee a certificate of completion that states the number of clock hours of that course.

(2) The Commission shall accept as evidence of completion of a continuing education course the certificate of completion, a photocopy of the certificate, an electronic mail certificate, or a photocopy of an electronic mail certificate.

(f) The Commission may waive the requirements of this section for a licensee if the licensee shows good cause for being unable to meet the requirements.

**(G) THE COMMISSION ~~MAY SET A~~ SHALL REQUIRE EACH COURSE PROVIDER TO PAY A CONTINUING EDUCATION COURSE APPLICATION FEE ~~TO BE PAID BY THE COURSE PROVIDER~~ OF \$25.**

SECTION 2. AND BE IT FURTHER ENACTED, That, as a condition of the next licensure renewal that occurs on or after January 1, ~~2011~~ 2012, each licensee of the State Real Estate Commission shall take at least one 3 clock hour course that includes the principles of agency and agency disclosure.

SECTION 3. AND BE IT FURTHER ENACTED, That, as a condition of the next licensure renewal that occurs on or after January 1, ~~2011~~ 2012, each individual designated as a branch office manager or a team leader and real estate broker licensees of the State Real Estate Commission shall take at least one 3 clock hour course that includes the requirements of broker supervision.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 387**

### **(House Bill 85)**

AN ACT concerning

#### **Commissioner of Labor and Industry – Boiler and Pressure Vessel Safety Act**

FOR the purpose of altering the boiler and pressure vessel safety law relating to applicants for a special inspector commission by repealing certain eligibility requirements; repealing a requirement that the Commissioner of Labor and Industry establish certain insurance requirements by regulation; authorizing, instead of requiring, the Board of Boiler Rules to give examinations to applicants for special inspector commissions; repealing a certain provision authorizing the Commissioner to issue a certain special inspector commission; providing that the Chief Boiler Inspector or a deputy boiler inspector shall have free access under certain circumstances to any premises in the State to investigate the activities of a special inspector; requiring the Chief Boiler Inspector or a deputy boiler inspector to make certain inspections, to respond to and investigate certain complaints, to inspect or investigate accidents or explosions involving boilers and pressure vessels, and to monitor special inspector inspections; authorizing the Chief Boiler Inspector, a deputy boiler inspector, a special inspector, or an authorized inspection agency to make certain inspections with respect to the installation, repair, or alteration of

boilers and pressure vessels; authorizing the Chief Boiler Inspector or a deputy boiler inspector to make certain inspections of antique or model steam boilers and pressure vessels; requiring the owner of an uninsured boiler or pressure vessel to contract with the Chief Boiler Inspector, a deputy boiler inspector, a special inspector, or an authorized inspection agency to make certain inspections; requiring boiler and pressure vessels to be tested and maintained in a safe operating condition in accordance with certain regulations; repealing certain inspection fees; ~~adding certain inspection fees~~; altering certain provisions to require only an authorized inspection agency to file with the Chief Boiler Inspector a certain report and a certain notification and to pay a certain filing fee; ~~requiring the owner or user of a boiler or pressure vessel to pay a certain fee for a certificate of inspection~~; requiring certain insurers to develop, maintain, and make available to the Commissioner of Labor and Industry for inspection at the insurer's place of business a certain quality assurance program or to submit to the Chief Boiler Inspector evidence of certain accreditation; and generally relating to boilers and pressure vessels.

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 12-907, 12-909, 12-910(a), ~~12-911~~, and 12-913(a)

Annotated Code of Maryland

(2003 Volume and 2009 Supplement)

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

### Article – Public Safety

12-907.

(a) (1) The following entities may request the Commissioner to issue special inspector commissions:

(i) an authorized insurer that insures boilers and pressure vessels in the State; **OR**

(ii) [a person that operates pressure vessels in the State that regularly are inspected and rated by an established inspection service under the supervision of engineers whose qualifications are satisfactory to the Board and in accordance with the regulations adopted under this subtitle; or

(iii)] an authorized inspection agency.

(2) On request of an entity described in paragraph (1) of this subsection, the Commissioner may issue a special inspector commission to an individual employed by the entity to serve as a special inspector if the entity and the individual satisfy the requirements of this section.

(b) (1) An applicant for a special inspector commission shall be employed by the entity that requests the special inspector commission.

(2) [An applicant for a special inspector commission for a person that operates pressure vessels shall:

(i) be employed full time by the person; and

(ii) be responsible for making inspections of pressure vessels that are used or to be used by the person and are not for resale.

(3)] An applicant for a special inspector commission shall:

(i) [pass the examination given by the Board under subsection (e) of this section;

(ii) hold a commission or certificate of competency as an inspector of boilers and pressure vessels in another state that has an examination substantially equivalent to the examination given by the Board; or

(iii) 1.] hold a commission as an inspector of boilers and pressure vessels issued by the National Board of Boiler and Pressure Vessel Inspectors; [and] **OR**

[2.] **(II)** pass [the part of] the examination given by the Board [that differs from the national examination] **UNDER SUBSECTION ~~(E)~~ (D) OF THIS SECTION.**

(c) (1) The employer of an applicant for a special inspector commission shall:

(i) submit to the Commissioner an application on the form that the Commissioner requires; and

(ii) pay to the Commissioner a fee of \$50.

(2) The application shall include:

(i) the name and qualifications of the individual who will serve as a special inspector; and

(ii) evidence that the individual satisfies the requirements of subsection (b) of this section.

~~(d) By regulation, the Commissioner shall establish insurance requirements that must be satisfied by an authorized inspection agency before a commission may be issued to an inspector employed by the authorized inspection agency.~~

~~(e)~~ **(D)** (1) The Board [shall] **MAY** give examinations to applicants for special inspector commissions as provided in this subsection.

(2) The examination:

(i) shall be in writing;

(ii) shall be limited to questions the answers to which will help to determine the fitness and competency of the individual for the intended service; and

(iii) may consist of questions prepared by the National Board of Boiler and Pressure Vessel Inspectors.

(3) (i) An applicant who fails the examination may appeal to the Board for a reexamination.

(ii) The reexamination shall be given by the Board within 90 days.

(4) The record of an applicant's examination shall be available to the applicant and the applicant's employer.

(5) The fee for an examination or reexamination is \$50.

~~(f)~~ ~~(4)~~ **(E)** The Commissioner shall issue a special inspector commission to each applicant who meets the requirements of this subtitle.

~~(2) The Commissioner may issue a special inspector commission to a representative of an employee organization covered by a collective bargaining agreement.~~

~~(g)~~ **(F)** An inspection by a special inspector of a boiler or pressure vessel insured or pressure vessel operated by the employer of the special inspector, or an inspection by a special inspector employed by an authorized inspection agency, exempts the owner or user of the boiler or pressure vessel from the payment to the State of inspection fees required by this subtitle for the boiler or pressure vessel.

~~(h)~~ **(G)** A special inspector may not receive a salary from or have any expenses paid by the State.

~~(i)~~ **(H)** (1) A special inspector commission expires 2 years after its effective date.

(2) Before a special inspector commission expires, the employer of the special inspector may renew the commission if the employer:

- (i) pays to the Commissioner a renewal fee of \$50; and
- (ii) submits evidence to the Commissioner that the special inspector:
  - 1. meets the standards imposed by this subtitle;
  - 2. remains in the employment of the employer; and
  - 3. has been trained on current boiler and pressure vessel technology in accordance with regulations adopted under this subtitle.

~~(I)~~ **(I)** Within 30 days after the termination of the employment of a special inspector, the employer shall return the special inspector commission to the Chief Boiler Inspector.

~~(J)~~ **(J)**(1) If an identification card of a special inspector is lost or destroyed, the Commissioner shall issue a new identification card in its place without another examination.

(2) The fee for replacement of an identification card is \$50.

~~(K)~~ **(K)**(1) After investigation and recommendation by the Board, the Commissioner may suspend the special inspector commission for:

- (i) incompetence of the special inspector;
- (ii) untrustworthiness of the special inspector;
- (iii) willful falsification of any matter or statement contained in the application for the special inspector commission; or
- (iv) willful falsification of any matter or statement contained in a report of an inspection made by the special inspector.

(2) Within 10 days after suspending a special inspector commission, the Commissioner shall give written notice of the suspension to the special inspector and the employer of the special inspector.

(3) (i) An individual whose special inspector commission has been suspended may appeal to the Board.

(ii) At the hearing on the appeal, the individual may be present and represented by counsel.

(4) An individual whose special inspector commission has been suspended may apply for reinstatement of the commission after 90 days following the date of the suspension.

~~(m)~~ **(L)** (1) If the Board has reason to believe that a special inspector is no longer qualified to hold a commission, the Board shall hold a hearing.

(2) The Board shall give at least 10 days' written notice of the hearing to the special inspector and to the employer of the special inspector.

(3) At the hearing, the special inspector and the employer shall have an opportunity to be heard.

(4) If after the hearing the Board finds that the special inspector is no longer qualified to hold a commission:

(i) the Board shall recommend to the Commissioner that the special inspector commission be revoked; and

(ii) the Commissioner shall revoke the special inspector commission immediately.

12-909.

(a) The requirements of this section and §§ 12-910 and 12-911 of this subtitle do not apply to:

(1) a boiler or pressure vessel that is located on a farm and used solely for agricultural purposes;

(2) a heating boiler that is located in a private residence or an apartment house with less than six family units;

(3) a pressure vessel that:

(i) contains only water under pressure for domestic supply purposes, including a pressure vessel that contains air, the compression of which serves only as a cushion or airlift pumping system; and

(ii) is located in a private residence or an apartment house with less than six family units; or

(4) an exhibition or antique boiler or pressure vessel, including a steam or gas engine, wheat thresher, or antique tractor, if the boiler or pressure vessel:

(i) has been inspected and issued a certificate of [safety] **INSPECTION** by another state that has safety requirements equal to or greater than those of this State; and

(ii) has been brought into this State to be used in a temporary exhibit or show.

(b) The Chief Boiler Inspector or a deputy boiler inspector shall have free access, during reasonable hours, to any premises in the State:

(1) to determine whether a boiler or pressure vessel is being constructed for use or installed in the State in accordance with this subtitle;

(2) to inspect or investigate an accident or explosion that involves a boiler or pressure vessel; [or]

(3) to make an inspection required under this subtitle; **OR**

(4) **TO INVESTIGATE AN INSPECTION OF A SPECIAL INSPECTOR.**

(c) (1) [Except as provided in paragraphs (2), (3), (4), and (5) of this subsection, the Chief Boiler Inspector or a deputy boiler inspector shall make the certificate inspections required under subsection (d) of this section.] **IN ADDITION TO THE CERTIFICATE INSPECTIONS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION, THE CHIEF BOILER INSPECTOR OR A DEPUTY BOILER INSPECTOR SHALL:**

**(I) INSPECT OR INVESTIGATE ACCIDENTS AND EXPLOSIONS INVOLVING BOILERS AND PRESSURE VESSELS;**

**(II) RESPOND TO AND INVESTIGATE COMPLAINTS ABOUT THE OPERATION OF BOILERS AND PRESSURE VESSELS; AND**

**(III) MONITOR THE INSPECTIONS OF SPECIAL INSPECTORS.**

**(2) THE CHIEF BOILER INSPECTOR, A DEPUTY BOILER INSPECTOR, A SPECIAL INSPECTOR, OR AN AUTHORIZED INSPECTION AGENCY MAY:**

**(I) MAKE CERTIFICATE INSPECTIONS OF THE INSTALLATION OF NEW BOILERS AND PRESSURE VESSELS; AND**

**(II) MAKE CERTIFICATE INSPECTIONS OF THE REPAIR OR ALTERATION OF BOILERS AND PRESSURE VESSELS.**

**(3) THE CHIEF BOILER INSPECTOR OR A DEPUTY BOILER INSPECTOR MAY MAKE A CERTIFICATE INSPECTION OF AN ANTIQUE BOILER OR PRESSURE VESSEL OR A MODEL STEAM BOILER.**

**[(2)] (4) [If] EXCEPT AS PROVIDED IN PARAGRAPHS (1) THROUGH (3) OF THIS SUBSECTION, IF a boiler or pressure vessel:**

**(I) is insured by an insurer, a special inspector employed by the insurer[,] or EMPLOYED by an authorized inspection agency under contract with the insurer[,] shall make the inspections required under subsection (d) of this section; OR**

**(II) IS NOT INSURED BY AN INSURER, THE OWNER SHALL CONTRACT WITH THE CHIEF BOILER INSPECTOR, A DEPUTY BOILER INSPECTOR, A SPECIAL INSPECTOR, OR AN AUTHORIZED INSPECTION AGENCY TO MAKE THE INSPECTIONS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION.**

**[(3)] If a pressure vessel is owned or operated by a person who employs a special inspector who holds a commission, the special inspector, or a special inspector employed by an authorized inspection agency under contract with the owner or operator, shall make the inspections required under subsection (d) of this section.]**

**[(4)] (5) (i) In this paragraph, “private inspector” means an individual who:**

**1. has a level II or level III certification from the American Society for Nondestructive Testing (ASNT); and**

**2. is commissioned as a special inspector by the National Board of Boiler and Pressure Vessel Inspectors.**

**(ii) If a boiler or pressure vessel is an exhibition or antique boiler or pressure vessel, including a steam or gas engine, wheat thresher, MODEL STEAM BOILER, or antique tractor, that will be used in an exhibit or show for noncommercial purposes, the inspections required under subsection (d) of this section may be made by a private inspector.**

**(iii) If a private inspector makes the inspections required under subsection (d) of this section, the private inspector shall file a report with the Chief Boiler Inspector on the results of the inspection.**

(iv) If the report of the private inspector shows that the exhibition or antique boiler or pressure vessel complies with the requirements of subsection (d) of this section and the regulations adopted under this subtitle, the Chief Boiler Inspector shall issue a certificate to the owner or user of the exhibition or antique boiler or pressure vessel that authorizes it to be used in an exhibit or show for noncommercial purposes.

**[(5)] (6)** If a boiler or pressure vessel is not insured by an insurer, the Commissioner may contract with an insurer or an authorized inspection agency to have a special inspector who is employed by that insurer or authorized inspection agency make the inspections required under **PARAGRAPH (1) OF THIS SUBSECTION AND** subsection (d) of this section **OR CONDUCTED UNDER PARAGRAPH (2) OR (3) OF THIS SUBSECTION.**

(d) (1) Except for boilers and pressure vessels exempt under subsection (a) of this section or § 12-903 of this subtitle, each boiler and each pressure vessel that is used or proposed to be used in the State shall be inspected [thoroughly as to its construction, installation, and condition in accordance with this subsection], **TESTED, AND MAINTAINED IN A SAFE OPERATING CONDITION IN ACCORDANCE WITH THE REGULATIONS ADOPTED BY THE COMMISSIONER IN CONJUNCTION WITH THE BOARD.**

(2) A certificate inspection required under this subsection shall be:

- (i) an internal inspection if construction allows; or
- (ii) an inspection that is as complete as possible.

(3) (i) Except for model steam boilers, a power boiler or a high pressure, high temperature water boiler shall:

- 1. receive a certificate inspection annually; and
- 2. be externally inspected annually while under pressure, if possible.

(ii) The Board may extend to 2 years the interval between certificate inspections of a power boiler if:

- 1. the power boiler has internal continuous water treatment under the general supervision of a professional engineer who has experience in the treatment of boiler water; and
- 2. the owner or user of the power boiler keeps available, for examination by the Chief Boiler Inspector or by a deputy boiler inspector or special inspector, accurate records that show:

A. the date, time, and reason that the power boiler is out of service; and

B. a chemical and physical analysis of samples of the boiler water taken at regular intervals of not more than 48 hours of operation that adequately show the condition of the boiler water and any elements or characteristics of the boiler water that are capable of producing corrosion or other deterioration of the power boiler or its parts.

(4) A nuclear vessel within the scope of this subtitle shall be inspected and reported in a form and with appropriate information designated by the Board.

(5) (i) Except as provided in paragraph (3) of this subsection, certificate inspections shall be conducted at time intervals set forth in regulations adopted under this subtitle and in accordance with Title 10 of the State Government Article.

(ii) The intervals shall protect public safety taking into consideration, consistent with § 12–905 of this subtitle, the design, type, age, extent of automated monitoring, fuel, and operating characteristics of the boiler or pressure vessel.

(e) If, at the discretion of the inspector, a hydrostatic test is considered necessary, the owner or user of a boiler or pressure vessel shall make the hydrostatic test.

(f) (1) Except as provided in paragraph (2) of this subsection, at least 30 days before installing a boiler or pressure vessel covered by this subtitle, the person who will perform the installation shall give the Commissioner notice of the installation in accordance with regulations adopted under this subtitle.

(2) Under emergency circumstances, the person who will perform the installation of a boiler or pressure vessel may give the Commissioner notice of the installation less than 30 days before installation in accordance with regulations adopted under this subtitle.

(3) Except for a cast-iron sectional boiler or pressure vessel, each boiler to be installed in the State shall be inspected:

(i) during construction or field assembly, as required by regulations adopted under this subtitle, by [an inspector authorized to inspect boilers and pressure vessels in the State] **THE CHIEF BOILER INSPECTOR, A DEPUTY BOILER INSPECTOR, A SPECIAL INSPECTOR, OR AN AUTHORIZED INSPECTION AGENCY**; or

(ii) if the boiler is constructed outside the State, by an inspector who holds a commission issued by the National Board of Boiler and Pressure Vessel Inspectors.

(g) (1) Within 24 hours after an accident or explosion, the owner or user of a boiler or pressure vessel shall give the Chief Boiler Inspector notice of the accident or explosion in accordance with regulations adopted under this subtitle.

(2) On notification or information, the Chief Boiler Inspector or a deputy boiler inspector shall investigate each accident or explosion that involves a boiler or pressure vessel covered by this subtitle.

(h) (1) The Board shall provide for public safety and therefore has jurisdiction over the interpretation and application of the inspection requirements provided in the regulations adopted under this subtitle.

(2) Inspection requirements of operating equipment shall:

(i) be in accordance with generally accepted practice; and

(ii) be compatible with the actual service conditions, including:

- 1. previous experience, based on records of performance and maintenance;
- 2. location, with respect to personnel hazard;
- 3. provision for related safe operation of controls; and
- 4. interrelation with other operations outside the scope of this subtitle.

(i) The owner or user of a boiler or pressure vessel required by this subtitle to be inspected by the Chief Boiler Inspector or a deputy boiler inspector shall pay directly to the Chief Boiler Inspector, on completion of the inspection, a fee in accordance with the following schedule:

(1) certificate inspection:

(i) initial certificate inspection of a boiler or pressure vessel not previously inspected in the State..... ~~no charge~~ \$40

[(ii) certificate inspection of a boiler or pressure vessel, other than a pressure vessel attached to an air compressor, previously inspected in the State.....\$40

(iii) certificate inspection of a pressure vessel, attached to an air compressor, previously inspected in the State ..... \$10

(iv) certificate inspection of an additional boiler or pressure vessel previously inspected in the State, at the same location, on the same date.... \$10]

**(II) ~~REPAIR INSPECTION~~.....\$50**

~~[(\*)-(III)]~~ follow-up inspection to determine compliance ..... \$50

(2) inspection of an antique or model steam boiler or pressure vessel.....\$15

(3) investigation of an accident or complaint..... no charge

(4) [special inspection] **OTHER INSPECTIONS**, such as an inspection at a fabrication or repair facility, ASME joint review, or National Board of Inspection Code Repair Review, shall be charged at the following rates, and shall include all expenses such as travel and hotel costs:

(i) half day (up to 4 hours)..... \$250

(ii) full day (up to 8 hours)..... \$500

12-910.

(a) (1) Each [authorized insurer, or] authorized inspection agency[,] that employs a special inspector shall file with the Chief Boiler Inspector a report on:

(i) each certificate inspection; and

(ii) any other inspection for which a report is required to be filed under regulations adopted under this subtitle.

(2) The report filed under paragraph (1) of this subsection shall:

(i) be filed within 30 days after an inspection; and

(ii) be in the form required by regulations adopted under this subtitle.

(3) For each report not filed electronically, the authorized [insurer] **INSPECTION AGENCY** shall pay a \$5 report filing fee.

(4) Within 24 hours after an inspection, each [authorized insurer, or] authorized inspection agency[,] that employs a special inspector shall notify the Chief

Boiler Inspector if an inspection reveals a hazardous condition as described in § 12-915(a)(2) of this subtitle that affects the safety of a boiler or pressure vessel.

~~12-911.~~

~~(a) If the report filed in accordance with § 12-910(a) of this subtitle shows that a boiler or pressure vessel complies with regulations adopted under this subtitle, the Chief Boiler Inspector, **ON RECEIPT FROM THE OWNER OR USER OF A BOILER OR PRESSURE VESSEL OF PAYMENT FOR A CERTIFICATE FEE IN THE AMOUNT REQUIRED BY SUBSECTION (B) OF THIS SECTION**, shall issue to the owner or user of the boiler or pressure vessel a certificate that bears the date of inspection, specifies the inspection interval, and specifies the maximum pressure under which the boiler or pressure vessel may be operated.~~

~~(b) **AN OWNER OR USER OF A BOILER OR PRESSURE VESSEL SHALL PAY A FEE OF \$40 FOR THE CERTIFICATE.**~~

~~[(b)] (c) Except as provided in § 12-909(d)(3) of this subtitle, the certificate is valid for the period that corresponds to the interval between certificate inspections as established by regulation under § 12-909 of this subtitle.~~

~~[(c)] (d) If the certificate inspection interval for a boiler or pressure vessel is extended under § 12-909(d)(5) of this subtitle, the Chief Boiler Inspector shall promptly issue a certificate to the owner of the boiler or pressure vessel that bears the new expiration date.~~

~~[(d)] (e) (1) The certificate shall be posted under glass in the room that contains the boiler or pressure vessel that was inspected.~~

~~(2) If the boiler or pressure vessel is not located in a building, the certificate shall be posted in a location convenient to the boiler or pressure vessel that was inspected or in any place where the certificate will be accessible to interested parties.~~

~~[(e)] (f) (1) The Chief Boiler Inspector or an authorized deputy boiler inspector may suspend a certificate at any time when, in the opinion of the inspector, the boiler or pressure vessel for which the certificate was issued:~~

~~(i) cannot be operated without danger to public safety; or~~

~~(ii) is found not to comply with regulations adopted under this subtitle.~~

~~(2) The suspension of a certificate continues until:~~

~~(i) the boiler or pressure vessel is made to conform to the regulations adopted under this subtitle; and~~

~~(ii) the certificate is reinstated.~~

~~[(f)] (G) If a boiler or pressure vessel for which a certificate was issued based on the report of a special inspector ceases to be insured by an authorized insurer, the certificate is invalid.~~

12-913.

(a) An authorized insurer that provides insurance coverage for boilers or pressure vessels in the State shall:

(1) conduct the certificate inspection for each boiler and pressure vessel that the insurer insures by the date the certificate inspection is due;

(2) file with the Chief Boiler Inspector the reports required under § 12-910 of this subtitle;

(3) develop, maintain, submit, and update, as defined by regulation, a database of all boilers and pressure vessels that the insurer insures in the State and track the date when the certificate inspection for each boiler or pressure vessel is due to ensure that the certificate inspections are due and completed as required under this subtitle; and

(4) **(I)** develop, maintain, and make available to the Commissioner **FOR INSPECTION AT THE INSURER'S PLACE OF BUSINESS IN THE STATE** a quality assurance program in accordance with regulations adopted under this subtitle; **OR**

**(II) SUBMIT TO THE CHIEF BOILER INSPECTOR EVIDENCE OF NB-369 ACCREDITATION BY THE NATIONAL BOARD OF BOILER AND PRESSURE VESSEL INSPECTORS.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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Chapter 388

(House Bill 88)

AN ACT concerning

### Other Tobacco Products Licenses

FOR the purpose of requiring a person to have an appropriate license whenever the person acts in the State as an other tobacco products manufacturer, retailer, storage warehouse, tobacconist, or wholesaler ~~in the State~~; providing for a certain exception for certain retailers and wholesalers; requiring a license to act as an other tobacco products retailer or a tobacconist for each place of business of the retailer or the tobacconist; making holders of other tobacco products licenses subject to certain restrictions and requirements; providing for license application procedures and fees; requiring the display of a license in a certain manner; prohibiting a person from reapplying for a license within a certain period after the person's license was revoked; requiring the Comptroller to issue other tobacco products licenses to manufacturers, storage warehouses, and wholesalers in the State under certain circumstances; requiring certain clerks of the circuit court to issue other tobacco products licenses to retailers and tobacconists under certain circumstances; specifying the scope of the licenses; providing certain provisions for retailers defined as tobacconists and retailers that sell premium cigars and pipe tobacco; providing for the renewal of a license; authorizing the Comptroller to delegate certain powers and duties; providing for certain disciplinary actions and proceedings; authorizing the Comptroller to adopt certain regulations; granting certain rights to judicial review under certain circumstances; prohibiting a person from acting, attempting to act, or offering to act in the State as an other tobacco products manufacturer, retailer, storage warehouse, tobacconist, or wholesaler ~~in the State~~ unless the person has an appropriate license; requiring the Comptroller to pay certain fees into the General Fund of the State; stating the intent of the General Assembly; requiring certain licensees to take certain actions and keep certain records; requiring a person who transports other tobacco products by vehicle on a public road to have certain information; authorizing the Comptroller by regulation to require a common carrier that brings other tobacco products into the State to submit certain information; prohibiting a person from shipping, importing, or selling other tobacco products into or within the State except under certain circumstances; requiring a person who ships, imports, or sells other tobacco products to take certain actions; placing certain restrictions on the sale, storage, and distribution of other tobacco products; providing for certain penalties; prohibiting certain political subdivisions from imposing a tax on other tobacco products; requiring ~~certain~~ and certain wholesalers to file a certain tax returns return on or before a certain date and pay a certain tax; ~~altering certain requirements for payment of the tobacco tax on cigarettes and other tobacco products~~; repealing a certain requirement that the Comptroller establish by regulation a certain system of taxing other tobacco products; authorizing the Comptroller to require an other tobacco products ~~manufacturer or~~ wholesaler to post security in a certain amount; defining certain terms; altering certain definitions; requiring the Comptroller to adopt certain regulations; providing for a delayed effective

date; requiring the Comptroller and the Administrative Office of the Courts to make a certain certification on or before a certain date; making the implementation of certain provisions of this Act contingent on the availability of funds; and generally relating to licenses for other tobacco products manufacturers, retailers, storage warehouses, tobacconists, and wholesalers in the State.

BY repealing

Article – Business Regulation

Section 16–217

Annotated Code of Maryland

(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Business Regulation

Section 16–219

Annotated Code of Maryland

(2004 Replacement Volume and 2009 Supplement)

BY adding to

Article – Business Regulation

Section 16A–101 through 16A–218 to be under the new title “Title 16A. Other Tobacco Products Licenses”

Annotated Code of Maryland

(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 12–101, 12–102, 12–103, 12–104, 12–201, 12–202, 12–301, 12–302, ~~12–304(a)~~, 13–825(h), and 13–1015

Annotated Code of Maryland

(2004 Replacement Volume and 2009 Supplement)

BY repealing

Article – Tax – General

Section 12–306

Annotated Code of Maryland

(2004 Replacement Volume and 2009 Supplement)

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

### **Article – Business Regulation**

[16–217.

The Comptroller by regulation may require a common carrier that brings cigarettes into the State to submit to the Comptroller a copy of any freight bill relating to the cigarette shipment.]

16-219.

(a) [In this section, “other tobacco products” has the meaning stated in § 12-101 of the Tax – General Article.

(b)] A person who transports cigarettes [or other tobacco products] by vehicle on a public road shall have in the vehicle a delivery ticket or invoice that states:

(1) the name and address of the seller or consignor;

(2) the name and address of a buyer or consignee who is:

(i) a person in the State authorized by Title 12 of the Tax – General Article to hold unstamped cigarettes [or other tobacco products] on which the tobacco tax has not been paid; or

(ii) a person in another jurisdiction authorized to hold cigarettes [or other tobacco products] on which the tax imposed by that jurisdiction has not been paid; and

(3) the quantity and brands of the cigarettes [or other tobacco products] that are being transported.

**(B) THE COMPTROLLER BY REGULATION MAY REQUIRE A COMMON CARRIER THAT BRINGS CIGARETTES INTO THE STATE TO SUBMIT TO THE COMPTROLLER A COPY OF ANY FREIGHT BILL RELATING TO THE CIGARETTE SHIPMENT.**

## **TITLE 16A. OTHER TOBACCO PRODUCTS LICENSES.**

### **SUBTITLE 1. DEFINITIONS.**

**16A-101.**

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

**(B) “COUNTY LICENSE” MEANS A LICENSE ISSUED BY THE CLERK TO SELL OTHER TOBACCO PRODUCTS AT RETAIL IN A COUNTY.**

**(C) “LICENSE” MEANS:**

(1) A LICENSE ISSUED BY THE COMPTROLLER UNDER § 16A-204(A) OF THIS TITLE TO:

(I) ACT AS ~~AN~~ A LICENSED OTHER TOBACCO PRODUCTS MANUFACTURER;

(II) ACT AS AN OTHER TOBACCO PRODUCTS WHOLESALER;

(III) ACT AS AN OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE; OR

(2) A LICENSE ISSUED BY THE CLERK UNDER § 16A-204(B) OF THIS TITLE TO ACT AS AN OTHER TOBACCO PRODUCTS RETAILER OR A TOBACCONIST.

(D) “LICENSED OTHER TOBACCO PRODUCTS MANUFACTURER” MEANS A PERSON LICENSED BY THE COMPTROLLER UNDER § 16A-204(A) OF THIS TITLE ~~TO ACT AS AN OTHER TOBACCO PRODUCTS MANUFACTURER~~ WHO:

(1) MANUFACTURES OR OTHERWISE PRODUCES OTHER TOBACCO PRODUCTS IN THE STATE INTENDED FOR SALE IN THE STATE, INCLUDING OTHER TOBACCO PRODUCTS INTENDED FOR SALE IN THE STATE THROUGH AN IMPORTER; AND

(2) (I) SELLS OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID TO A LICENSED OTHER TOBACCO PRODUCTS WHOLESALER IN THE STATE;

(II) SELLS OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID AND WHICH MAY LAWFULLY BE SOLD IN THE STATE TO A LICENSED OTHER TOBACCO PRODUCTS WHOLESALER LOCATED OUTSIDE OF THE STATE;

(III) UNLESS OTHERWISE PROHIBITED OR RESTRICTED UNDER LOCAL LAW, THIS ARTICLE, OR THE CRIMINAL LAW ARTICLE, DISTRIBUTES SAMPLE OTHER TOBACCO PRODUCTS TO CONSUMERS LOCATED IN THE STATE; OR

(IV) STORES OTHER TOBACCO PRODUCTS IN AN OTHER TOBACCO PRODUCTS WAREHOUSE IN THE STATE FOR SUBSEQUENT SHIPMENT TO LICENSED WHOLESALERS, FEDERAL RESERVATIONS, OR PERSONS OUTSIDE OF THE STATE.

(E) “LICENSED OTHER TOBACCO PRODUCTS RETAILER” MEANS A PERSON LICENSED BY THE CLERK UNDER § 16A-204(B) OF THIS TITLE TO ACT AS AN OTHER TOBACCO PRODUCTS RETAILER.

(F) “LICENSED OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE” MEANS A FACILITY LICENSED BY THE COMPTROLLER UNDER § 16A-204(A) OF THIS TITLE TO ACT AS AN OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE.

(G) “LICENSED OTHER TOBACCO PRODUCTS WHOLESALER” MEANS A PERSON LICENSED BY THE COMPTROLLER UNDER § 16A-204(A) OF THIS TITLE TO ACT AS AN OTHER TOBACCO PRODUCTS WHOLESALER.

(H) “LICENSED TOBACCONIST” MEANS A PERSON LICENSED BY THE CLERK OF A CIRCUIT COURT UNDER § 16A-204(B) OF THIS TITLE TO ACT AS A TOBACCONIST.

(I) “OTHER TOBACCO PRODUCTS” MEANS:

(1) ANY CIGAR OR ROLL FOR SMOKING, OTHER THAN A CIGARETTE, MADE IN WHOLE OR IN PART OF TOBACCO; OR

(2) ANY OTHER TOBACCO OR PRODUCT MADE PRIMARILY FROM TOBACCO, OTHER THAN A CIGARETTE, THAT IS INTENDED FOR CONSUMPTION BY SMOKING OR CHEWING OR AS SNUFF.

~~(H)~~ (J) “OTHER TOBACCO PRODUCTS MANUFACTURER” MEANS A PERSON WHO:

(1) MANUFACTURES OR OTHERWISE PRODUCES OTHER TOBACCO PRODUCTS INTENDED FOR SALE IN THIS STATE, INCLUDING OTHER TOBACCO PRODUCTS INTENDED FOR SALE IN THE UNITED STATES THROUGH AN IMPORTER; ~~AND~~

(2) (I) SELLS OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID TO A LICENSED OTHER TOBACCO PRODUCTS WHOLESALER IN MARYLAND;

(II) SELLS OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID AND WHICH MAY LAWFULLY BE SOLD IN MARYLAND TO A LICENSED OTHER TOBACCO PRODUCTS WHOLESALER LOCATED OUTSIDE MARYLAND;

(III) UNLESS OTHERWISE PROHIBITED OR RESTRICTED UNDER LOCAL LAW, THIS ARTICLE, OR THE CRIMINAL LAW ARTICLE,

DISTRIBUTES SAMPLE OTHER TOBACCO PRODUCTS TO CONSUMERS LOCATED IN MARYLAND; OR

(IV) STORES OTHER TOBACCO PRODUCTS IN AN OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE IN MARYLAND FOR SUBSEQUENT SHIPMENT TO LICENSED OTHER TOBACCO PRODUCTS WHOLESALERS, FEDERAL RESERVATIONS, OR PERSONS OUT OF STATE; OR

(3) IS A LICENSED OTHER TOBACCO PRODUCTS MANUFACTURER UNDER THIS TITLE.

~~(J)~~ (K) “OTHER TOBACCO PRODUCTS RETAILER” MEANS A PERSON WHO:

(1) SELLS OTHER TOBACCO PRODUCTS TO CONSUMERS; OR

(2) HOLDS OTHER TOBACCO PRODUCTS FOR SALE TO CONSUMERS.

~~(K)~~ (L) “OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE” MEANS A STORAGE FACILITY IN MARYLAND OPERATED FOR THE PURPOSE OF STORING OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID ON BEHALF OF ~~A LICENSED~~ AN OTHER TOBACCO PRODUCTS MANUFACTURER.

~~(L)~~ (M) “OTHER TOBACCO PRODUCTS WHOLESALER” MEANS A PERSON WHO:

(1) HOLDS OTHER TOBACCO PRODUCTS FOR SALE TO ANOTHER PERSON FOR RESALE; OR

(2) SELLS OTHER TOBACCO PRODUCTS TO ANOTHER PERSON FOR RESALE.

~~(M)~~ (N) (1) “PACKAGE” MEANS A PACK, BOX, CARTON, CAN, WRAP, POUCH, BAG, OR CONTAINER OF ANY KIND DESIGNED FOR RETAIL CONSUMPTION IN WHICH OTHER TOBACCO PRODUCTS ARE OFFERED FOR SALE, SOLD, OR OTHERWISE DISTRIBUTED.

(2) “PACKAGE” INCLUDES NOT MORE THAN 10 CIGARS OFFERED FOR SALE, SOLD, OR DISTRIBUTED AS SINGLE CIGARS.

(O) “PIPE TOBACCO” MEANS ANY TOBACCO THAT, BECAUSE OF ITS APPEARANCE, TYPE, PACKAGING, OR LABELING, IS SUITABLE FOR USE AND

LIKELY TO BE OFFERED TO, OR PURCHASED BY, CONSUMERS AS TOBACCO TO SMOKE IN A PIPE.

(P) "PREMIUM CIGARS" MEANS CIGARS THAT:

(1) HAVE HAND-ROLLED WRAPPERS MADE FROM WHOLE TOBACCO LEAVES WHERE THE FILLER, BINDER, AND WRAPPER ARE MADE OF ALL TOBACCO, AND MAY INCLUDE ADHESIVES OR OTHER MATERIALS USED TO MAINTAIN SIZE, TEXTURE, OR FLAVOR; OR

(2) ARE DESIGNATED AS PREMIUM CIGARS BY THE COMPTROLLER BY REGULATION.

~~(N)~~ (Q) "SELL" MEANS TO EXCHANGE OR TRANSFER, OR TO AGREE TO EXCHANGE OR TRANSFER, TITLE OR POSSESSION OF PROPERTY, IN ANY MANNER OR BY ANY MEANS, FOR CONSIDERATION.

~~(O)~~ (R) "SELL OTHER TOBACCO PRODUCTS AT RETAIL" MEANS TO SELL OTHER TOBACCO PRODUCTS TO A CONSUMER.

(S) "TOBACCONIST" MEANS AN OTHER TOBACCO PRODUCTS BUSINESS THAT DERIVES AT LEAST 70% OF ITS REVENUES, MEASURED BY AVERAGE DAILY RECEIPTS, FROM THE SALE OF OTHER TOBACCO PRODUCTS AND TOBACCO-RELATED ACCESSORIES.

16A-102.

THE COMPTROLLER MAY DELEGATE ANY POWER OR DUTY OF THE COMPTROLLER UNDER THIS TITLE.

## SUBTITLE 2. OTHER TOBACCO PRODUCTS LICENSES.

16A-201.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON MUST HAVE AN APPROPRIATE LICENSE WHENEVER THE PERSON ACTS AS ~~AN~~ A LICENSED OTHER TOBACCO PRODUCTS MANUFACTURER, A LICENSED OTHER TOBACCO PRODUCTS RETAILER, A LICENSED OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE, OR A LICENSED OTHER TOBACCO PRODUCTS WHOLESALER, OR A LICENSED TOBACCONIST IN THE STATE.

(B) A PERSON NEED NOT OBTAIN AN OTHER TOBACCO PRODUCTS RETAILER LICENSE UNDER THIS SUBTITLE TO ACT AS A RETAILER AT A

**VENDING STAND OPERATED UNDER A TRADER'S LICENSE ISSUED TO BLIND INDUSTRIES AND SERVICES OF MARYLAND.**

**(C) A LICENSE TO ACT AS AN OTHER TOBACCO PRODUCTS RETAILER OR A TOBACCONIST IS REQUIRED FOR EACH PLACE OF BUSINESS WHERE A PERSON ACTS AS AN OTHER TOBACCO PRODUCTS RETAILER OR A TOBACCONIST.**

**(D) (1) ~~A PERSON LICENSED AS AN~~ AN OTHER TOBACCO PRODUCTS MANUFACTURER, OR PERSON CONNECTED WITH THE BUSINESS OF ~~A LICENSED~~ AN OTHER TOBACCO PRODUCTS MANUFACTURER OR RELATED BY OWNERSHIP, MAY NOT AT THE SAME TIME HOLD OR HAVE ANY FINANCIAL INTEREST IN AN OTHER TOBACCO PRODUCTS WHOLESALER LICENSE OR IN ANY BUSINESS OF AN OTHER TOBACCO PRODUCTS WHOLESALER.**

**(2) A PERSON LICENSED AS AN OTHER TOBACCO PRODUCTS WHOLESALER, OR PERSON CONNECTED WITH THE BUSINESS OF A LICENSED OTHER TOBACCO PRODUCTS WHOLESALER OR RELATED BY OWNERSHIP, MAY NOT AT THE SAME TIME HOLD OR HAVE ANY FINANCIAL INTEREST IN AN OTHER TOBACCO PRODUCTS MANUFACTURER LICENSE OR IN ANY BUSINESS OF AN OTHER TOBACCO PRODUCTS MANUFACTURER.**

**16A-202.**

**(A) AN APPLICANT FOR A LICENSE TO ACT AS ~~AN~~ A LICENSED OTHER TOBACCO PRODUCTS MANUFACTURER SHALL MAINTAIN IN THE STATE AN ESTABLISHED PLACE OF BUSINESS FOR THE MANUFACTURE AND STORAGE OF OTHER TOBACCO PRODUCTS.**

**(B) AN APPLICANT FOR A LICENSE TO ACT AS AN OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE SHALL MAINTAIN AN ESTABLISHED PLACE OF BUSINESS FOR STORAGE OF OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID.**

**(C) AN APPLICANT FOR A LICENSE TO ACT AS AN OTHER TOBACCO PRODUCTS WHOLESALER SHALL MAINTAIN:**

**(1) AN ESTABLISHED PLACE OF BUSINESS, INCLUDING WAREHOUSE FACILITIES, FOR THE SALE OF OTHER TOBACCO PRODUCTS; AND**

**(2) NECESSARY EQUIPMENT AND VEHICLES FOR THE STORAGE AND DISTRIBUTION OF OTHER TOBACCO PRODUCTS.**

**16A-203.**

(A) AN APPLICANT FOR A LICENSE TO ACT AS ~~AN~~ A LICENSED OTHER TOBACCO PRODUCTS MANUFACTURER SHALL:

(1) SUBMIT AN APPLICATION TO THE COMPTROLLER ON THE FORM AND CONTAINING THE INFORMATION THAT THE COMPTROLLER REQUIRES; AND

(2) PAY TO THE COMPTROLLER A FEE OF \$25.

(B) (1) AN APPLICANT FOR A LICENSE TO ACT AS AN OTHER TOBACCO PRODUCTS RETAILER OR A TOBACCONIST:

(I) SHALL OBTAIN A COUNTY LICENSE BY SUBMITTING TO THE CLERK AN APPLICATION FOR EACH PERMANENT OR TEMPORARY PLACE OF BUSINESS LOCATED IN THE SAME ENCLOSURE AND OPERATED BY THE SAME APPLICANT; AND

(II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, SHALL PAY TO THE CLERK A FEE OF \$15.

(2) A PERSON WHO HAS A LICENSE ISSUED UNDER TITLE 16 OF THIS ARTICLE TO ACT AS A CIGARETTE RETAILER OR TO ACT AS A SPECIAL CIGARETTE RETAILER IS NOT REQUIRED TO PAY THE LICENSE FEE.

(3) THE APPLICATION SHALL:

(I) BE MADE ON THE FORM THAT THE CLERK REQUIRES;  
AND

(II) CONTAIN THE INFORMATION THAT THE COMPTROLLER REQUIRES.

(C) AN APPLICANT FOR A LICENSE TO ACT AS AN OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE SHALL:

(1) SUBMIT AN APPLICATION TO THE COMPTROLLER ON THE FORM AND CONTAINING THE INFORMATION THAT THE COMPTROLLER REQUIRES; AND

(2) PAY TO THE COMPTROLLER A FEE OF \$25.

(D) (1) AN APPLICANT FOR A LICENSE TO ACT AS AN OTHER TOBACCO PRODUCTS WHOLESALE SHALL:

~~(1)~~ (I) SUBMIT AN APPLICATION TO THE COMPTROLLER ON THE FORM AND CONTAINING THE INFORMATION THAT THE COMPTROLLER REQUIRES; AND

~~(2)~~ (II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, PAY TO THE COMPTROLLER A FEE OF \$250.

(2) A PERSON WHO HAS A LICENSE ISSUED UNDER TITLE 16 OF THIS ARTICLE TO ACT AS A CIGARETTE WHOLESALER IS NOT REQUIRED TO PAY THE LICENSE FEE.

(E) A LICENSEE SHALL DISPLAY A LICENSE IN THE WAY THAT THE COMPTROLLER REQUIRES BY REGULATION.

(F) IF A PERSON HAS HAD A LICENSE REVOKED UNDER § 16A-208 OF THIS SUBTITLE, THE PERSON MAY NOT REAPPLY FOR A LICENSE WITHIN 1 YEAR AFTER THE DATE WHEN THE PRIOR LICENSE WAS REVOKED.

#### 16A-204.

(A) THE COMPTROLLER SHALL ISSUE AN APPROPRIATE LICENSE TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE FOR A LICENSE TO ACT AS ~~AN~~ A LICENSED OTHER TOBACCO PRODUCTS MANUFACTURER, OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE, OR OTHER TOBACCO PRODUCTS WHOLESALER.

(B) THE CLERK OF THE CIRCUIT COURT SHALL ISSUE TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE A LICENSE TO ACT AS AN OTHER TOBACCO PRODUCTS RETAILER OR A TOBACCONIST.

#### 16A-205.

(A) AN OTHER TOBACCO PRODUCTS MANUFACTURER ~~LICENSE~~ AUTHORIZES THE LICENSEE TO MAY:

(1) SELL OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID TO:

(I) A LICENSED OTHER TOBACCO PRODUCTS WHOLESALER LOCATED IN MARYLAND;

(II) A LICENSED OTHER TOBACCO PRODUCTS WHOLESALER LOCATED OUTSIDE MARYLAND IF THE OTHER TOBACCO PRODUCTS MAY BE SOLD LAWFULLY IN MARYLAND; OR

**(III) A LICENSED TOBACCONIST;**

**(2) SELL PREMIUM CIGARS OR PIPE TOBACCO ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID TO A LICENSED OTHER TOBACCO PRODUCTS RETAILER;**

~~(2)~~ **(3) EXCEPT AS OTHERWISE PROHIBITED OR RESTRICTED UNDER LOCAL LAW, THIS ARTICLE, OR THE CRIMINAL LAW ARTICLE, DISTRIBUTE SAMPLE OTHER TOBACCO PRODUCTS TO CONSUMERS LOCATED IN MARYLAND; AND**

~~(3)~~ **(4) STORE OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID IN A LICENSED OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE FOR SUBSEQUENT SHIPMENT TO LICENSED OTHER TOBACCO PRODUCTS WHOLESALERS, FEDERAL RESERVATIONS, OR PERSONS OUT OF STATE; AND**

**(5) ON APPROVAL OF THE COMPTROLLER, ACT AS AN AGENT OF A MARYLAND OTHER TOBACCO PRODUCTS WHOLESALER FOR DISTRIBUTION OF OTHER TOBACCO PRODUCTS.**

**(B) AN OTHER TOBACCO PRODUCTS RETAILER LICENSE AUTHORIZES THE LICENSEE TO:**

**(1) ACT AS AN OTHER TOBACCO PRODUCTS RETAILER; ~~AND~~**

**(2) BUY OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS BEEN PAID FROM AN OTHER TOBACCO PRODUCTS WHOLESALER; AND**

**(3) BUY PREMIUM CIGARS OR PIPE TOBACCO ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID FROM AN OTHER TOBACCO PRODUCTS MANUFACTURER.**

**(C) (1) AN OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE LICENSE AUTHORIZES THE LICENSEE TO OPERATE A STORAGE FACILITY IN MARYLAND FOR THE PURPOSE OF STORING OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID ON BEHALF OF A LICENSED OTHER TOBACCO PRODUCTS MANUFACTURER.**

**(2) IF AN OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE LICENSEE IS A LICENSED OTHER TOBACCO PRODUCTS WHOLESALER, THE OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE LICENSE AUTHORIZES THE HOLDER TO STORE OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX**

HAS BEEN PAID AND OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS BEEN PAID TO ANOTHER STATE.

(D) AN OTHER TOBACCO PRODUCTS WHOLESALER LICENSE AUTHORIZES THE LICENSEE TO:

- (1) ACT AS AN OTHER TOBACCO PRODUCTS WHOLESALER;
- (2) BUY OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID DIRECTLY FROM AN OTHER TOBACCO PRODUCTS MANUFACTURER;
- (3) HOLD OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID;
- (4) TRANSPORT OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID IN THE STATE;
- (5) SELL OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID TO ANOTHER LICENSED OTHER TOBACCO PRODUCTS WHOLESALER IF THE COMPTROLLER SPECIFICALLY AUTHORIZES; AND
- (6) STORE OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID AT A LICENSED OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE.

(E) A TOBACCONIST LICENSE AUTHORIZES THE LICENSEE TO:

- (1) ACT AS A TOBACCONIST; AND
- (2) BUY OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID FROM AN OTHER TOBACCO PRODUCTS MANUFACTURER.

16A-206.

(A) UNLESS A LICENSE IS RENEWED FOR A 1-YEAR TERM AS PROVIDED IN THIS SECTION, THE LICENSE EXPIRES ON THE FIRST APRIL 30 AFTER ITS EFFECTIVE DATE.

(B) AT LEAST 1 MONTH BEFORE A LICENSE ISSUED UNDER THIS SUBTITLE EXPIRES, THE ISSUING OFFICIAL SHALL MAIL TO THE LICENSEE, AT THE LAST KNOWN ADDRESS OF THE LICENSEE, A RENEWAL NOTICE THAT STATES:

(1) THE DATE ON WHICH THE CURRENT LICENSE EXPIRES; AND

(2) THE DATE BY WHICH THE ISSUING OFFICIAL MUST RECEIVE THE RENEWAL APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE LICENSE EXPIRES.

(C) BEFORE A LICENSE ISSUED UNDER THIS SUBTITLE EXPIRES, THE LICENSEE MAY RENEW IT FOR AN ADDITIONAL 1-YEAR TERM, IF THE LICENSEE:

(1) OTHERWISE IS ENTITLED TO BE LICENSED;

(2) SUBMITS TO THE ISSUING OFFICIAL A RENEWAL APPLICATION ON THE FORM THAT THE ISSUING OFFICIAL REQUIRES; AND

(3) PAYS TO THE ISSUING OFFICIAL THE LICENSE FEE REQUIRED UNDER § 16A-203 OF THIS SUBTITLE.

(D) THE ISSUING OFFICIAL SHALL RENEW THE LICENSE OF EACH LICENSEE WHO MEETS THE REQUIREMENTS OF THIS SECTION.

#### 16A-207.

(A) (1) A LICENSED OTHER TOBACCO PRODUCTS RETAILER OR A LICENSED TOBACCONIST MAY NOT ASSIGN THE LICENSE.

(2) IF A LICENSED OTHER TOBACCO PRODUCTS WHOLESALER SELLS THE LICENSEE'S OTHER TOBACCO PRODUCTS BUSINESS AND PAYS TO THE COMPTROLLER A LICENSE ASSIGNMENT FEE OF \$10, THE LICENSEE MAY ASSIGN THE LICENSE TO THE BUYER OF THE BUSINESS, IF THE BUYER OTHERWISE QUALIFIES UNDER THIS TITLE FOR AN OTHER TOBACCO PRODUCTS WHOLESALER'S LICENSE.

(B) IF THE OTHER TOBACCO PRODUCTS BUSINESS OF A LICENSEE IS TRANSFERRED BECAUSE OF BANKRUPTCY, DEATH, INCOMPETENCY, RECEIVERSHIP, OR OTHERWISE BY OPERATION OF LAW, THE COMPTROLLER SHALL TRANSFER THE LICENSE WITHOUT CHARGE TO THE NEW OWNER OF THE LICENSEE'S BUSINESS, IF THE TRANSFEREE OTHERWISE QUALIFIES UNDER THIS TITLE FOR THE LICENSE BEING TRANSFERRED.

(C) (1) IF A LICENSED OTHER TOBACCO PRODUCTS WHOLESALER SURRENDERS THE LICENSE TO THE COMPTROLLER AND IF NO DISCIPLINARY PROCEEDINGS ARE PENDING AGAINST THE LICENSEE, THE COMPTROLLER

SHALL REFUND A PRO RATA PART OF THE LICENSE FEE FOR THE UNEXPIRED TERM OF THE LICENSE.

(2) A LICENSED OTHER TOBACCO PRODUCTS RETAILER OR A LICENSED TOBACCONIST IS NOT ALLOWED A REFUND FOR THE UNEXPIRED TERM OF THE LICENSE.

16A-208.

(A) SUBJECT TO THE HEARING PROVISIONS OF § 16A-209 OF THIS SUBTITLE, THE COMPTROLLER MAY DENY A LICENSE TO AN APPLICANT, REPRIMAND A LICENSEE, OR SUSPEND OR REVOKE A LICENSE IF THE APPLICANT OR LICENSEE:

(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A LICENSE FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER PERSON;

(2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

(3) BUYS OTHER TOBACCO PRODUCTS FOR RESALE:

(I) IN VIOLATION OF A LICENSE; OR

(II) FROM A PERSON WHO IS NOT ~~A LICENSED~~ AN OTHER TOBACCO PRODUCTS MANUFACTURER OR LICENSED OTHER TOBACCO PRODUCTS WHOLESALER;

(4) IS CONVICTED, UNDER THE LAWS OF THE UNITED STATES OR OF ANY OTHER STATE, OF:

(I) A FELONY; OR

(II) A MISDEMEANOR THAT IS A CRIME OF MORAL TURPITUDE AND IS DIRECTLY RELATED TO THE FITNESS AND QUALIFICATION OF THE APPLICANT OR LICENSEE;

(5) VIOLATES TITLE 12 OF THE TAX – GENERAL ARTICLE OR REGULATIONS ADOPTED UNDER THAT TITLE; OR

(6) VIOLATES THIS TITLE OR TITLE 16 OF THIS ARTICLE OR REGULATIONS ADOPTED UNDER THESE TITLES.

**(B) SUBJECT TO THE HEARING PROVISIONS OF § 16A-209 OF THIS SUBTITLE, THE COMPTROLLER SHALL DENY A LICENSE TO ANY APPLICANT WHO HAS HAD A LICENSE REVOKED UNDER THIS SECTION UNTIL:**

**(1) 1 YEAR HAS PASSED SINCE THE LICENSE WAS REVOKED; AND**

**(2) IT SATISFACTORILY APPEARS TO THE COMPTROLLER THAT THE APPLICANT WILL COMPLY WITH THIS TITLE AND ANY REGULATIONS ADOPTED UNDER THIS TITLE.**

**(C) PRIOR TO THE ISSUANCE OR RENEWAL OF ANY LICENSE, THE COMPTROLLER SHALL CONDUCT AN INVESTIGATION WITH REGARD TO:**

**(1) THE APPLICANT;**

**(2) THE BUSINESS TO BE OPERATED; AND**

**(3) THE FACTS SET FORTH IN THE APPLICATION.**

**16A-209.**

**(A) EXCEPT AS OTHERWISE PROVIDED IN § 10-226 OF THE STATE GOVERNMENT ARTICLE, BEFORE THE COMPTROLLER TAKES ANY FINAL ACTION UNDER § 16A-208 OF THIS SUBTITLE, THE COMPTROLLER SHALL GIVE THE PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE COMPTROLLER.**

**(B) THE COMPTROLLER SHALL GIVE NOTICE AND HOLD THE HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.**

**(C) THE COMPTROLLER MAY ADMINISTER OATHS IN A PROCEEDING UNDER THIS SECTION.**

**(D) THE PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED MAY BE REPRESENTED AT THE HEARING BY COUNSEL.**

**(E) IF, AFTER DUE NOTICE, THE PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED DOES NOT APPEAR, NEVERTHELESS THE COMPTROLLER MAY HEAR AND DETERMINE THE MATTER.**

**16A-210.**

(A) SUBJECT TO THE NOTICE REQUIREMENT OF SUBSECTION (C) OF THIS SECTION, IF A LICENSEE ENGAGES IN AN ACT OR OMISSION THAT IS A GROUND FOR DISCIPLINE UNDER § 16A-208 OF THIS SUBTITLE, THE COMPTROLLER MAY SUSPEND THE LICENSE FOR A CONSECUTIVE PERIOD THAT:

(1) FOR A FIRST OFFENSE, IS NOT LESS THAN 5 NOR MORE THAN 20 BUSINESS DAYS; OR

(2) FOR A SUBSEQUENT OFFENSE, IS NOT LESS THAN 20 BUSINESS DAYS NOR MORE THAN 6 MONTHS.

(B) SUBJECT TO THE NOTICE REQUIREMENT UNDER SUBSECTION (C) OF THIS SECTION, THE COMPTROLLER MAY REVOKE A LICENSE IF A LICENSEE:

(1) WILLFULLY AND PERSISTENTLY ENGAGES IN AN ACT OR OMISSION THAT IS A GROUND FOR DISCIPLINE UNDER § 16A-208(A) OF THIS SUBTITLE; OR

(2) VIOLATES THIS TITLE OR TITLE 12 OF THE TAX – GENERAL ARTICLE OR REGULATIONS ADOPTED UNDER THESE TITLES.

(C) IF A LICENSE IS SUSPENDED OR REVOKED UNDER THIS SECTION:

(1) THE COMPTROLLER SHALL GIVE THE LICENSEE NOTICE OF THE SUSPENSION OR REVOCATION; AND

(2) THE SUSPENSION OR REVOCATION MAY NOT TAKE EFFECT UNTIL AT LEAST 5 BUSINESS DAYS FOLLOWING NOTICE OF THE SUSPENSION OR REVOCATION.

(D) THE TRANSFER, RENEWAL, OR EXPIRATION OF A LICENSE WILL NOT BAR OR ABATE A DISCIPLINARY ACTION UNDER THIS SECTION.

(E) (1) EXCEPT FOR A VIOLATION OF § 10-107 OF THE CRIMINAL LAW ARTICLE, WHENEVER ANY LICENSE ISSUED UNDER THE PROVISIONS OF THIS SUBTITLE IS SUSPENDED OR REVOKED BY THE COMPTROLLER, THE LICENSEE MAY, BEFORE THE EFFECTIVE DATE OF THE SUSPENSION OR REVOCATION, PETITION THE COMPTROLLER FOR PERMISSION TO MAKE AN OFFER OF COMPROMISE CONSISTING OF A SUM OF MONEY IN LIEU OF SERVING THE SUSPENSION OR REVOCATION.

(2) MONEY PAID IN LIEU OF SUSPENSION OR REVOCATION SHALL BE PAID INTO THE GENERAL FUND OF THE STATE.

(3) AN OFFER OF COMPROMISE MAY NOT EXCEED \$2,000 IN THE CASE OF RETAIL LICENSEES AND MAY NOT EXCEED \$50,000 FOR OTHER LICENSEES.

(4) THE COMPTROLLER MAY ACCEPT THE OFFER OF COMPROMISE IF:

(I) THE PUBLIC WELFARE AND MORALS WOULD NOT BE IMPAIRED BY ALLOWING THE LICENSEE TO OPERATE DURING THE PERIOD SET FOR THE SUSPENSION OR REVOCATION; AND

(II) THE PAYMENT OF THE SUM OF MONEY WILL ACHIEVE THE DESIRED DISCIPLINARY PURPOSES.

(5) THE COMPTROLLER MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBSECTION.

#### 16A-211.

A PARTY TO A PROCEEDING BEFORE THE COMPTROLLER WHO IS AGGRIEVED BY A FINAL DECISION OF THE COMPTROLLER IN A CONTESTED CASE, AS DEFINED IN § 10-202 OF THE STATE GOVERNMENT ARTICLE, IS ENTITLED TO JUDICIAL REVIEW AS PROVIDED IN §§ 10-222 AND 10-223 OF THE STATE GOVERNMENT ARTICLE.

#### 16A-212.

(A) EXCEPT AS OTHERWISE PROVIDED IN § 16A-201(B) OF THIS SUBTITLE, A PERSON MAY NOT ACT, ATTEMPT TO ACT, OR OFFER TO ACT AS ~~AN~~ A LICENSED OTHER TOBACCO PRODUCTS MANUFACTURER, A LICENSED OTHER TOBACCO PRODUCTS RETAILER, A LICENSED OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE, ~~OR~~ A LICENSED OTHER TOBACCO PRODUCTS WHOLESALE, OR A LICENSED TOBACCONIST IN THE STATE UNLESS THE PERSON HAS AN APPROPRIATE LICENSE.

(B) (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 30 DAYS OR BOTH.

(2) EACH DAY THAT A VIOLATION OF THIS SECTION CONTINUES IS A SEPARATE OFFENSE.

#### 16A-213.

(A) (1) THE COMPTROLLER SHALL PAY INTO THE GENERAL FUND OF THE STATE ALL LICENSE FEES COLLECTED UNDER THIS TITLE.

(2) ALL LICENSE FEES COLLECTED BY THE COUNTIES ARE SUBJECT TO THE DISTRIBUTION PROVISIONS OF § 17-206 OF THIS ARTICLE.

(B) THE GENERAL ASSEMBLY INTENDS THAT THESE LICENSE FEES BE USED TO ADMINISTER THIS TITLE.

16A-214.

(A) EACH OTHER TOBACCO PRODUCTS WHOLESALER:

(1) SHALL GET AN INVOICE FOR EACH PURCHASE OF OTHER TOBACCO PRODUCTS;

(2) SHALL KEEP A RECORD OF ALL OTHER TOBACCO PRODUCTS RECEIVED, TO WHICH THE OTHER TOBACCO PRODUCTS WHOLESALER SHALL POST EACH DAY:

(I) THE INVOICE NUMBER;

(II) THE DATE OF RECEIPT;

(III) THE QUANTITY RECEIVED;

(IV) THE BRAND;

(V) THE MANUFACTURER; AND

(VI) THE NAME OF THE PERSON FROM WHOM THE OTHER TOBACCO PRODUCTS ARE RECEIVED;

(3) FOR OTHER TOBACCO PRODUCTS SALES TO OTHER TOBACCO PRODUCTS RETAILERS AND TOBACCONISTS:

(I) SHALL KEEP A RECORD OF THE NAME AND ADDRESS OF EACH OTHER TOBACCO PRODUCTS RETAILER AND TOBACCONIST TO WHOM A SALE IS MADE; AND

(II) EXCEPT FOR A TRANSFER OF OTHER TOBACCO PRODUCTS TO RETAIL STOCK BY A WRITTEN MEMORANDUM, SHALL PREPARE FOR EACH SALE AN INVOICE THAT SHOWS THE POLITICAL SUBDIVISION WHERE

THE OTHER TOBACCO PRODUCTS RETAILER AND EACH TOBACCONIST IS LOCATED; AND

(4) SHALL KEEP A COMPLETE AND ACCURATE RECORD OF EACH SALE OF OTHER TOBACCO PRODUCTS TO AN OUT-OF-STATE PERSON FOR RESALE TO OUT-OF-STATE CONSUMERS.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH OTHER TOBACCO PRODUCTS WHOLESALER SHALL MAKE AN INVENTORY RECORD EACH MONTH OF ALL OTHER TOBACCO PRODUCTS ON THE PREMISES OR UNDER THE CONTROL OF THE OTHER TOBACCO PRODUCTS WHOLESALER:

(I) AT THE BEGINNING OR END OF THE MONTH; OR

(II) ON ANOTHER SPECIFIC DAY OF THE MONTH, IF THE OTHER TOBACCO PRODUCTS WHOLESALER FINDS IT MORE PRACTICAL TO TAKE INVENTORY ON THAT DAY AND NOTIFIES THE COMPTROLLER THAT INVENTORY WILL BE TAKEN ON THAT DAY.

(2) OTHER TOBACCO PRODUCTS TRANSFERRED TO RETAIL STOCK BY WRITTEN MEMORANDUM NEED NOT BE INCLUDED IN THE INVENTORY RECORD.

(C) EACH OTHER TOBACCO PRODUCTS WHOLESALER SHALL:

(1) KEEP THE RECORDS REQUIRED BY THIS SECTION FOR 6 YEARS OR FOR A SHORTER TIME SET BY THE COMPTROLLER; AND

(2) ALLOW THE COMPTROLLER TO EXAMINE THE RECORDS.

(D) A LICENSED OTHER TOBACCO PRODUCTS RETAILER WHO PURCHASES PREMIUM CIGARS OR PIPE TOBACCO FROM AN OTHER TOBACCO PRODUCTS MANUFACTURER OR A LICENSED TOBACCONIST SHALL, FOR A PERIOD OF 2 YEARS, KEEP AND MAINTAIN AVAILABLE FOR INSPECTION AT THE LICENSE LOCATION DURING BUSINESS HOURS:

(1) ALL INVOICES AND BILLS OF LADING; AND

(2) ALL RECORDS COVERING ALL PURCHASES AND SALES OF OTHER TOBACCO PRODUCTS.

(A) A PERSON WHO TRANSPORTS OTHER TOBACCO PRODUCTS BY VEHICLE ON A PUBLIC ROAD SHALL HAVE IN THE VEHICLE A DELIVERY TICKET OR AN INVOICE THAT STATES:

(1) THE NAME AND ADDRESS OF THE SELLER OR CONSIGNOR;

(2) THE NAME AND ADDRESS OF A BUYER OR CONSIGNEE WHO IS:

(I) A PERSON IN THE STATE AUTHORIZED BY TITLE 12 OF THE TAX – GENERAL ARTICLE TO HOLD OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID; OR

(II) A PERSON IN ANOTHER JURISDICTION AUTHORIZED TO HOLD OTHER TOBACCO PRODUCTS ON WHICH THE TAX IMPOSED BY THAT JURISDICTION HAS NOT BEEN PAID; AND

(3) THE QUANTITY AND BRANDS OF THE OTHER TOBACCO PRODUCTS THAT ARE BEING TRANSPORTED.

(B) THE COMPTROLLER BY REGULATION MAY REQUIRE A COMMON CARRIER THAT BRINGS OTHER TOBACCO PRODUCTS INTO THE STATE TO SUBMIT TO THE COMPTROLLER A COPY OF ANY FREIGHT BILL RELATING TO THE OTHER TOBACCO PRODUCTS SHIPMENT.

16A–216.

(A) A PERSON MAY NOT SHIP, IMPORT, OR SELL INTO OR WITHIN THIS STATE ANY OTHER TOBACCO PRODUCTS UNLESS THAT PERSON:

(1) IS THE OWNER OF THE BRAND;

(2) IS THE UNITED STATES IMPORTER FOR THE BRAND; OR

(3) IS A DESIGNATED AGENT IN MARYLAND OF:

(I) THE OWNER OF THE BRAND; OR

(II) THE UNITED STATES IMPORTER OF THE BRAND; AND

(4) HOLDS ANY LICENSE REQUIRED BY THIS SUBTITLE.

(B) A PERSON WHO SHIPS, IMPORTS, OR SELLS OTHER TOBACCO PRODUCTS INTO OR WITHIN THIS STATE:

(1) SHALL COMPLY WITH ANY FEDERAL AND STATE REQUIREMENTS CONCERNING THE PLACEMENT OF WARNING LABELS OR OTHER INFORMATION ON THE CONTAINERS OR INDIVIDUAL PACKAGES OF OTHER TOBACCO PRODUCTS; AND

(2) SHALL ENSURE THAT THE CONTAINERS OR INDIVIDUAL PACKAGES OF OTHER TOBACCO PRODUCTS DO NOT CONTAIN ANY INFORMATION OR MARKINGS THAT ARE FALSE, MISLEADING, OR CONTRARY TO:

(I) FEDERAL TRADEMARK OR TAX LAWS;

(II) THE TRADEMARK LAW OF THIS STATE UNDER TITLE 1, SUBTITLE 4 OF THIS ARTICLE; OR

(III) THE TAX LAWS OF THIS STATE UNDER TITLE 12 OF THE TAX – GENERAL ARTICLE.

(C) A PERSON WHO SHIPS, IMPORTS, OR SELLS OTHER TOBACCO PRODUCTS INTO OR WITHIN THIS STATE IN VIOLATION OF THIS SECTION IS SUBJECT TO DISCIPLINARY ACTION BY THE COMPTROLLER UNDER § 16A–208 OF THIS SUBTITLE AND TO THE PENALTY SPECIFIED IN § 13–1015 OF THE TAX – GENERAL ARTICLE.

16A–217.

(A) THIS SECTION APPLIES TO A PERSON WHO IS ENGAGED IN THE BUSINESS OF SELLING OR DISTRIBUTING OTHER TOBACCO PRODUCTS.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON COVERED UNDER THIS SECTION MAY NOT:

(I) SELL OR SHIP OTHER TOBACCO PRODUCTS, ORDERED OR PURCHASED BY MAIL OR THROUGH A COMPUTER NETWORK, TELEPHONIC NETWORK, OR OTHER ELECTRONIC NETWORK BY A CONSUMER OR OTHER UNLICENSED RECIPIENT, DIRECTLY TO A CONSUMER OR OTHER UNLICENSED RECIPIENT IN THIS STATE; OR

(II) CAUSE OTHER TOBACCO PRODUCTS, ORDERED OR PURCHASED BY MAIL OR THROUGH A COMPUTER NETWORK, TELEPHONIC NETWORK, OR OTHER ELECTRONIC NETWORK BY A CONSUMER OR OTHER UNLICENSED RECIPIENT, TO BE SHIPPED DIRECTLY TO A CONSUMER OR OTHER UNLICENSED RECIPIENT IN THIS STATE.

**(2) A LICENSED OTHER TOBACCO PRODUCTS RETAILER OR LICENSED TOBACCONIST MAY DELIVER ~~NO~~ NOT MORE THAN TWO PACKAGES OF OTHER TOBACCO PRODUCTS DIRECTLY TO A CONSUMER IF THE DELIVERY IS MADE BY THE LICENSED OTHER TOBACCO PRODUCTS RETAILER OR LICENSED TOBACCONIST OR AN EMPLOYEE OF THE LICENSED OTHER TOBACCO PRODUCTS RETAILER OR LICENSED TOBACCONIST.**

**(C) (1) A LICENSEE WHO SELLS OR SHIPS OTHER TOBACCO PRODUCTS IN VIOLATION OF THIS SECTION OR CAUSES OTHER TOBACCO PRODUCTS TO BE SHIPPED IN VIOLATION OF THIS SECTION IS:**

**(I) SUBJECT TO DISCIPLINE BY THE COMPTROLLER UNDER § 16A-208 OF THIS SUBTITLE; AND**

**(II) GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$50 FOR EACH PACKAGE OF OTHER TOBACCO PRODUCTS TRANSPORTED OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH.**

**(2) A PERSON OTHER THAN A LICENSEE WHO SELLS OR SHIPS OTHER TOBACCO PRODUCTS IN VIOLATION OF THIS SECTION OR CAUSES OTHER TOBACCO PRODUCTS TO BE SHIPPED IN VIOLATION OF THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$50 FOR EACH PACKAGE OF OTHER TOBACCO PRODUCTS TRANSPORTED OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH.**

**16A-218.**

**UNLESS OTHERWISE SPECIFIED IN THIS TITLE, A PERSON WHO VIOLATES ANY PROVISION OF THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 30 DAYS OR BOTH.**

#### **Article – Tax – General**

**12-101.**

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

**(b) “Cigarette” means any size or shaped roll for smoking that is made of tobacco or tobacco mixed with another ingredient and wrapped in paper or in any other material except tobacco.**

**(c) “MANUFACTURER” MEANS A PERSON WHO ACTS AS A MANUFACTURER AS DEFINED IN § 16-201 OF THE BUSINESS REGULATION**

**ARTICLE OR AS AN OTHER TOBACCO PRODUCTS MANUFACTURER AS DEFINED IN § 16A-101 OF THE BUSINESS REGULATION ARTICLE.**

~~[(c)]~~ **(D)** “Other tobacco product” means:

(1) any cigar or roll for smoking, other than a cigarette, made in whole or in part of tobacco; or

(2) any other tobacco or product made primarily from tobacco, other than a cigarette, that is intended for consumption by smoking or chewing or as snuff.

~~[(d)]~~ **(E)** “OTHER TOBACCO PRODUCTS RETAILER” MEANS A PERSON AUTHORIZED UNDER § 16A-205(B) OF THE BUSINESS REGULATION ARTICLE TO PURCHASE OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID.

**(F)** “Sell” means to exchange or transfer, or to make an agreement to exchange or transfer, title or possession of property, in any manner or by any means, for consideration.

~~[(e)]~~ ~~(F)~~ **(G)** “Tax stamp” means a device in the design and denomination that the Comptroller authorizes by regulation for the purpose of being affixed to a package of cigarettes as evidence that the tobacco tax is paid.

~~[(f)]~~ ~~(G)~~ **(H)** “TOBACCONIST” MEANS A PERSON AUTHORIZED UNDER § 16A-205(E) OF THE BUSINESS REGULATION ARTICLE TO PURCHASE OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID.

**(I)** “Unstamped cigarettes” means a package of cigarettes to which tax stamps are not affixed in the amount and manner required in § 12-304 of this title.

~~[(g)]~~ ~~(H)~~ **(J)** “Wholesale price” means the price for which a wholesaler buys other tobacco products, exclusive of any discount, trade allowance, rebate, or other reduction.

~~[(h)]~~ ~~(I)~~ **(K)** “Wholesaler” means, unless the context requires otherwise[:

(1)], a person who acts as a wholesaler as defined in § 16-201 of the Business Regulation Article[; or

(2) a person who:

(i) holds other tobacco products for sale to another person for resale; or

(ii) sells other tobacco products to another person for resale] **OR AS AN OTHER TOBACCO PRODUCTS WHOLESALER AS DEFINED IN § 16A-101 OF THE BUSINESS REGULATION ARTICLE.**

12-102.

(a) Except as provided in § 12-104 of this subtitle, a tax is imposed on cigarettes and other tobacco products in the State.

(b) A county, municipal corporation, special taxing district, or other political subdivision of the State may not impose a tax on cigarettes **OR OTHER TOBACCO PRODUCTS.**

12-103.

(a) A rebuttable presumption exists that any cigarette or other tobacco product in the State is subject to the tobacco tax.

(b) Cigarettes or other tobacco products are contraband tobacco products if they:

(1) are possessed or sold in the State in a manner that is not authorized under this title or under Title 16 **OR TITLE 16A** of the Business Regulation Article; or

(2) are transported by vehicle in the State by a person who does not have, in the vehicle, the records required by § 16-219 **OR § 16A-215** of the Business Regulation Article for the transportation of cigarettes or other tobacco products.

(c) A person who possesses cigarettes or other tobacco products has the burden of proving that the cigarettes or other tobacco products are not subject to the tobacco tax.

12-104.

(a) “Consumer” means a person who possesses cigarettes or other tobacco products for a purpose other than selling or transporting the cigarettes or other tobacco products.

(b) The tobacco tax does not apply to:

(1) cigarettes that a licensed wholesaler under Title 16 of the Business Regulation Article is holding for sale outside the State or to a United States armed forces exchange or commissary;

(2) other tobacco products that [a] **AN OTHER TOBACCO PRODUCTS** wholesaler **LICENSED UNDER TITLE 16A OF THE BUSINESS REGULATION ARTICLE** is holding for sale outside the State or to a United States armed forces exchange or commissary; or

(3) cigarettes or other tobacco products that:

(i) a consumer brings into the State:

1. if the quantity brought from another state does not exceed:

A. for a nonresident consumer traveling through this State, other tobacco products having a retail value of \$25 or 1 carton of cigarettes; or

B. for any other consumer, other tobacco products having a retail value of \$5 or 2 packages of cigarettes; or

2. if the quantity brought from a United States armed forces installation or reservation does not exceed:

A. for a consumer who is a member of an armed forces unit or who is entitled by law to make a purchase at an armed forces exchange, other tobacco products having a retail value of \$50 or 2 cartons of cigarettes; or

B. for any other consumer, other tobacco products having a retail value of \$5 or 2 packages of cigarettes that were bought at an armed forces exchange or commissary;

(ii) a person is transporting by vehicle in the State if the person has, in the vehicle, the records required by § 16-219 **OR § 16A-215** of the Business Regulation Article for the transportation of cigarettes or other tobacco products; or

(iii) are held in storage in a licensed storage warehouse on behalf of a licensed cigarette manufacturer **OR A LICENSED AN OTHER TOBACCO PRODUCTS MANUFACTURER.**

12-201.

(a) A manufacturer shall complete and file with the Comptroller a tobacco tax return:

(1) on or before the 15th day of the month that follows the month in which the manufacturer distributes in the State free sample cigarettes ~~OR OTHER TOBACCO PRODUCTS~~ of the manufacturer; and

(2) if the Comptroller so specifies, by regulation, on other dates for each month in which the manufacturer does not distribute any sample cigarettes ~~OR OTHER TOBACCO PRODUCTS~~.

**(B) A LICENSED OTHER TOBACCO PRODUCTS MANUFACTURER SHALL FILE THE INFORMATION RETURN THAT THE COMPTROLLER REQUIRES.**

~~(b)~~ **(C) A licensed storage warehouse operator AND A LICENSED OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE OPERATOR** shall file the information return that the Comptroller requires.

12-202.

(a) A wholesaler shall complete and file with the Comptroller a tobacco tax return:

(1) for cigarettes:

(i) on or before the 21st day of the month that follows the month in which the wholesaler has the first possession, in the State, of unstamped cigarettes for which tax stamps are required; and

(ii) if the Comptroller so specifies, by regulation, on other dates for each month in which the wholesaler does not have the first possession of any unstamped cigarettes in the State; and

(2) for other tobacco products, [on the dates and for the periods that the Comptroller specifies by regulation] **ON OR BEFORE THE 21ST DAY OF THE MONTH THAT FOLLOWS THE MONTH IN WHICH THE WHOLESALER HAS POSSESSION OF OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID.**

(b) Each return shall state the quantity of cigarettes or the wholesale price of other tobacco products sold during the period that the return covers.

12-301.

In this subtitle, “licensed wholesaler” means a wholesaler who is licensed under Title 16, Subtitle 2 of the Business Regulation Article to act as a wholesaler **OR UNDER TITLE 16A, SUBTITLE 2 OF THE BUSINESS REGULATION ARTICLE TO ACT AS AN OTHER TOBACCO PRODUCTS WHOLESALER.**

12-302.

(a) A manufacturer of sample cigarettes ~~OR OTHER TOBACCO PRODUCTS~~ shall pay the tobacco tax on those cigarettes ~~OR OTHER TOBACCO PRODUCTS~~

distributed in the State without charge, in the manner that the Comptroller requires by regulation, with the return that covers the period in which the manufacturer distributed those cigarettes ~~OR OTHER TOBACCO PRODUCTS~~.

(b) The wholesaler who first possesses in the State unstamped cigarettes for which tax stamps are required shall pay the tobacco tax on those cigarettes by buying and affixing tax stamps.

(c) [(1)] The tobacco tax on other tobacco products shall be paid by the wholesaler who sells the other tobacco products to a retailer [or consumer] in the State.

[(2)] If a retailer or consumer possesses other tobacco products in the State on which the tobacco tax has not been paid, the retailer or consumer shall pay the tobacco tax on those other tobacco products.]

**(D) (1) A LICENSED OTHER TOBACCO PRODUCTS RETAILER OR A LICENSED TOBACCONIST SHALL PAY THE TOBACCO TAX ON OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID BY FILING A QUARTERLY TAX RETURN, WITH ANY SUPPORTING SCHEDULES, ON FORMS PROVIDED BY THE COMPTROLLER ON THE FOLLOWING DATES COVERING TAX LIABILITIES IN THE PRECEDING QUARTER:**

**(I) JANUARY 21;**

**(II) APRIL 21;**

**(III) JULY 21; AND**

**(IV) OCTOBER 21.**

**(2) A LICENSED OTHER TOBACCO PRODUCTS RETAILER OR A LICENSED TOBACCONIST REQUIRED TO FILE A TAX RETURN UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PAY A TOBACCO TAX AT THE RATE PROVIDED IN § 12-105(B) OF THIS TITLE BASED ON THE INVOICE AMOUNT CHARGED BY THE LICENSED OTHER TOBACCO PRODUCTS MANUFACTURER, EXCLUSIVE OF ANY DISCOUNT, TRADE ALLOWANCE, REBATE, OR OTHER REDUCTION.**

~~12-304~~

~~(a) A manufacturer that pays the tobacco tax shall indicate prominently on each package of cigarettes ~~OR OTHER TOBACCO PRODUCTS~~ that:~~

~~(1) the package contains sample cigarettes ~~OR OTHER TOBACCO PRODUCTS~~ that are not for sale; and~~

~~(2) all applicable tobacco taxes on those cigarettes OR OTHER TOBACCO PRODUCTS have been paid.~~

[12–306.

(a) The Comptroller shall establish, by regulation, a system of administering, collecting, and enforcing the tobacco tax on other tobacco products.

(b) Regulations adopted under this section may include:

(1) self-assessment, filing of returns, and maintenance and retention of records by wholesalers or retailers;

(2) payment of the tax by:

(i) a wholesaler who sells other tobacco products to a retailer or consumer in the State; or

(ii) a retailer or consumer who possesses other tobacco products in the State on which the tobacco tax has not been paid; and

(3) any other provision that the Comptroller considers necessary to efficiently and economically administer, collect, and enforce the tax.]

13–825.

(h) (1) The Comptroller may require a person subject to the tobacco tax to post security for the tax in the following amounts:

(i) for a ~~CIGARETTE~~ manufacturer or wholesaler:

1. \$10,000, plus

2. the amount, if any, by which the tobacco tax due for any 1 month exceeds \$10,000[.];

(ii) for a subwholesaler or vending machine operator:

1. \$1,000, plus

2. the amount, if any, by which the tobacco tax due for any 1 month exceeds \$1,000; AND

**(III) FOR AN OTHER TOBACCO PRODUCTS MANUFACTURER OR WHOLESALER:**

1. **\$5,000, PLUS**

2. **THE AMOUNT, IF ANY, BY WHICH THE TOBACCO TAX DUE FOR ANY 1 MONTH EXCEEDS \$5,000.**

(2) Except as provided in paragraph (5) of this subsection, the Comptroller may exempt a person from posting security for the tobacco tax if the person is and has been for the past 5 years:

(i) licensed as required under § 16–202 of the Business Regulation Article to act as a wholesaler **OR § 16A–201 TO ACT AS AN OTHER TOBACCO PRODUCTS WHOLESALER**; and

(ii) 1. in continuous compliance with the tobacco tax laws, as determined under paragraph (3) of this subsection; and

2. in continuous compliance with the conditions of the person's security posted under this subsection.

(3) For purposes of paragraph (2) of this subsection, a person is in continuous compliance with the tobacco tax laws for a period if the person has not, at any time during that period:

(i) failed to pay any tobacco tax or any tobacco tax assessment when due;

(ii) failed to file a tobacco tax return when due; or

(iii) otherwise violated any of the provisions of Title 12 or Title 13 of this article or **Title 16 OR TITLE 16A** of the Business Regulation Article.

(4) (i) An exemption granted under paragraph (2) of this subsection is effective only to the extent that a person's potential tobacco tax liability does not exceed an amount determined by the Comptroller based on the person's experience during the 5-year compliance period under paragraph (2) of this subsection.

(ii) The Comptroller may revoke an exemption granted to a person under paragraph (2) of this subsection if the person at any time fails to be in continuous compliance with the tobacco tax laws, as described in paragraph (3) of this subsection.

(iii) The Comptroller may reinstate an exemption revoked under subparagraph (ii) of this paragraph if the person meets the requirements of paragraph (2)(i) and (ii) of this subsection for a period of 2 years following the revocation.

(5) The Comptroller may not exempt a person from posting a bond or other security for the tobacco tax unless the Comptroller determines that the person is solvent and financially able to pay the person's potential tobacco tax liability.

(6) If a corporation is granted an exemption from posting a bond or other security for the tobacco tax, any officer of the corporation who exercises direct control over its fiscal management is personally liable for any tobacco tax, interest and penalties owed by the corporation.

13-1015.

A person who willfully ships, imports, sells into or within, or transports within, this State cigarettes or other tobacco products on which the tobacco tax has not been paid in violation of Title 12 of this article or § 16-219 [or], § 16-222, **§ 16A-215, OR § 16A-216** of the Business Regulation Article is guilty of a felony and, on conviction, is subject to a fine not exceeding \$50 for each carton of cigarettes **OR EACH PACKAGE OF OTHER TOBACCO PRODUCTS** transported or imprisonment not exceeding 2 years or both.

SECTION 2. AND BE IT FURTHER ENACTED, That the Comptroller shall adopt regulations to carry out this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That ~~this Act shall take effect May 1, 2011~~, on or before January 1, 2011, the Comptroller and the Administrative Office of the Courts shall certify to the Senate Finance Committee and the House Economic Matters Committee when the Comptroller and the Administrative Office of the Courts have entered into a memorandum of understanding providing for the funding to implement the requirements of Section 1 of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That Sections 1 and 2 of this Act shall take effect May 1, 2011, contingent on the successful securing of funding for the implementation of the requirements of Section 1 of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That, subject to Section 4 of this Act, this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

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Chapter 389

(House Bill 89)

AN ACT concerning

**Environment – Wetlands and Waterways Program Fees – Aquaculture**

FOR the purpose of exempting aquacultural activities for which the Department of Natural Resources has issued a certain permit from a requirement to pay certain fees under the Wetlands and Waterways Program; requiring the Aquaculture Coordinating Council to report certain information to the Department of the Environment and the General Assembly on or before a certain date; and generally relating to the Wetlands and Waterways Program.

BY repealing and reenacting, without amendments,  
Article – Environment  
Section 5–203.1(a) and (b)(1)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
Article – Environment  
Section 5–203.1(b)(2)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 Supplement)

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

**Article – Environment**

5–203.1.

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

(2) “Major project” means a project that:

(i) Proposes to permanently impact 5,000 square feet or more of wetlands or waterways, including the 100–year floodplain;

(ii) Is located in an area identified as potentially impacting threatened or endangered species or species in need of conservation by a geographical information system database that:

1. Includes sensitive species project review areas and waterfowl concentration and staging areas;

2. Has been developed and maintained by the Department of Natural Resources; and

3. Is used by the Department to screen incoming applications;

(iii) Is located in an area that has been identified as potentially impacting historical or archeological resources by a geographical information system database that:

1. Includes Maryland archeological sites, the Maryland Inventory of Historic Properties, the National Register of Historic Places, the Maryland Historical Trust Preservation Easements, the Annapolis Maryland Inventory of Historic Properties, and the Annapolis Maryland Inventory of Historic Properties street map;

2. Has been developed and maintained by the Maryland Historical Trust; and

3. Is used by the Department to screen incoming applications;

(iv) Is located in an area identified as potentially impacting a nontidal wetland of special State concern by a geographical information system database that:

1. Has been developed and maintained by the Department of Natural Resources; and

2. Is used by the Department to screen incoming applications;

(v) Is adjacent to Use III or Use IV waters, as defined in regulation by the Department; or

(vi) Requires the issuance of a public notice by the Department.

(3) “Minor project” means a project that:

(i) Proposes to permanently impact less than 5,000 square feet of wetlands or waterways, including the 100–year floodplain; and

(ii) Does not meet the definition of a major project.

(b) (1) Except as provided under paragraph (2) of this subsection, all applications for wetlands and waterways authorizations issued by the Department under §§ 5–503, 5–906, 16–202, 16–302, and 16–307 of this article or wetlands licenses issued by the Board of Public Works under § 16–202 of this article shall be accompanied by an application fee as follows:

(i) For an application for a minor project or general permit.....\$750;

(ii) For an application for a minor modification..... \$500;

(iii) For an application for a major project or major modification with a proposed permanent impact of:

1. Less than 1/4 acre.....\$1,500;  
2. At least 1/4 acre, but less than 1/2 acre.....\$3,000;

3. At least 1/2 acre, but less than 3/4 acre.....\$4,500;

4. At least 3/4 acre, but less than 1 acre.....\$6,000; and

5. 1 acre or more.....the impact area in acres multiplied by \$7,500.

(2) The following are exempt from the application fees established under paragraph (1) of this subsection:

(i) Regulated activities conducted by the State, a municipal corporation, county, bicounty or multicounty agency under Article 28 or Article 29 of the Code, or a unit of the State, a municipal corporation, or a county;

(ii) Performance of agricultural best management practices contained in a soil conservation and water quality plan approved by the appropriate soil conservation district;

(iii) Performance of forestry best management practices contained in an erosion and sediment control plan:

- 1. Prepared by a registered forester; and
- 2. Approved by the appropriate soil conservation district;

[and]

(iv) Stream restoration, vegetative shoreline stabilization, wetland creation, or other project in which the primary effect is to enhance the State's wetland or water resources; AND

**(v) AQUACULTURAL ACTIVITIES FOR WHICH THE DEPARTMENT OF NATURAL RESOURCES HAS ISSUED A PERMIT UNDER § 4-11A-02 OF THE NATURAL RESOURCES ARTICLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the Aquaculture Coordinating Council shall report to the Department of the Environment and, in accordance with § 2-1246 of the State Government Article, the General Assembly on:

- (1) The status of commercial aquaculture in the State;
- (2) The fiscal impact of the fee exemption established under this Act;  
and
- (3) Any other findings and recommendations related to the implementation of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 390

### (Senate Bill 3)

AN ACT concerning

#### **Environment – Wetlands and Waterways Program Fees – Aquaculture**

FOR the purpose of exempting aquacultural activities for which the Department of Natural Resources has issued a certain permit from a requirement to pay certain fees under the Wetlands and Waterways Program; requiring the Aquaculture Coordinating Council to report certain information to the Department of the Environment and the General Assembly on or before a certain date; and generally relating to the Wetlands and Waterways Program.

BY repealing and reenacting, without amendments,  
Article – Environment  
Section 5-203.1(a) and (b)(1)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
Article – Environment  
Section 5-203.1(b)(2)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 Supplement)

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

**Article – Environment**

5–203.1.

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

(2) “Major project” means a project that:

(i) Proposes to permanently impact 5,000 square feet or more of wetlands or waterways, including the 100–year floodplain;

(ii) Is located in an area identified as potentially impacting threatened or endangered species or species in need of conservation by a geographical information system database that:

1. Includes sensitive species project review areas and waterfowl concentration and staging areas;

2. Has been developed and maintained by the Department of Natural Resources; and

3. Is used by the Department to screen incoming applications;

(iii) Is located in an area that has been identified as potentially impacting historical or archeological resources by a geographical information system database that:

1. Includes Maryland archeological sites, the Maryland Inventory of Historic Properties, the National Register of Historic Places, the Maryland Historical Trust Preservation Easements, the Annapolis Maryland Inventory of Historic Properties, and the Annapolis Maryland Inventory of Historic Properties street map;

2. Has been developed and maintained by the Maryland Historical Trust; and

3. Is used by the Department to screen incoming applications;

(iv) Is located in an area identified as potentially impacting a nontidal wetland of special State concern by a geographical information system database that:

1. Has been developed and maintained by the Department of Natural Resources; and

2. Is used by the Department to screen incoming applications;

(v) Is adjacent to Use III or Use IV waters, as defined in regulation by the Department; or

(vi) Requires the issuance of a public notice by the Department.

(3) “Minor project” means a project that:

(i) Proposes to permanently impact less than 5,000 square feet of wetlands or waterways, including the 100–year floodplain; and

(ii) Does not meet the definition of a major project.

(b) (1) Except as provided under paragraph (2) of this subsection, all applications for wetlands and waterways authorizations issued by the Department under §§ 5–503, 5–906, 16–202, 16–302, and 16–307 of this article or wetlands licenses issued by the Board of Public Works under § 16–202 of this article shall be accompanied by an application fee as follows:

(i) For an application for a minor project or general permit.....\$750;

(ii) For an application for a minor modification..... \$500;

(iii) For an application for a major project or major modification with a proposed permanent impact of:

1. Less than 1/4 acre.....\$1,500;

2. At least 1/4 acre, but less than 1/2 acre.....\$3,000;

3. At least 1/2 acre, but less than 3/4 acre.....\$4,500;

4. At least 3/4 acre, but less than 1 acre.....\$6,000; and

5. 1 acre or more.....the impact area in acres multiplied by \$7,500.

(2) The following are exempt from the application fees established under paragraph (1) of this subsection:

(i) Regulated activities conducted by the State, a municipal corporation, county, bicounty or multicounty agency under Article 28 or Article 29 of the Code, or a unit of the State, a municipal corporation, or a county;

(ii) Performance of agricultural best management practices contained in a soil conservation and water quality plan approved by the appropriate soil conservation district;

(iii) Performance of forestry best management practices contained in an erosion and sediment control plan:

1. Prepared by a registered forester; and
2. Approved by the appropriate soil conservation district;

[and]

(iv) Stream restoration, vegetative shoreline stabilization, wetland creation, or other project in which the primary effect is to enhance the State's wetland or water resources; AND

**(v) AQUACULTURAL ACTIVITIES FOR WHICH THE DEPARTMENT OF NATURAL RESOURCES HAS ISSUED A PERMIT UNDER § 4-11A-02 OF THE NATURAL RESOURCES ARTICLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the Aquaculture Coordinating Council shall report to the Department of the Environment and, in accordance with § 2-1246 of the State Government Article, the General Assembly on:

(1) The status of commercial aquaculture in the State;

(2) The fiscal impact of the fee exemption established under this Act;  
and

(3) Any other findings and recommendations related to the implementation of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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**Chapter 391****(House Bill 96)**

AN ACT concerning

**Calvert County – Education – Junior Reserve Officer Training Corps  
Instructors**

FOR the purpose of applying to Calvert County a certain definition of “public school employee” that includes Junior Reserve Officer Training Corps (JROTC) instructors for the purpose of certain provisions of law related to organizations of certificated employees; and generally relating to representation for JROTC instructors in Calvert County.

BY repealing and reenacting, with amendments,  
Article – Education  
Section 6–401(d)  
Annotated Code of Maryland  
(2008 Replacement Volume and 2009 Supplement)

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

**Article – Education**

6–401.

(d) (1) “Public school employee” means a certificated professional individual who is employed by a public school employer or an individual of equivalent status in Baltimore City, except for a county superintendent or an individual designated by the public school employer to act in a negotiating capacity as provided in § 6–408(b) of this subtitle.

(2) In Montgomery County, “public school employees” include:

(i) Certificated and noncertificated substitute teachers employed by the public school employer for at least 7 days before March 1 of the school fiscal year ending June 30, 1978, and each year after; and

(ii) Home and hospital teachers employed by the public school employer for at least 7 days before March 1 of the school fiscal year ending June 30, 2000, and each year after.

(3) In Baltimore County, “public school employee” includes:

(i) A secondary school nurse, an elementary school nurse, and a special school nurse; and

(ii) Supervisory noncertificated employees as defined under § 6–501(h) of this title.

(4) In Frederick County, “public school employee” includes a social worker employed by a public school employer.

(5) In Prince George’s County, “public school employee” includes home and hospital teachers and Junior Reserve Officer Training Corps (JROTC) instructors.

(6) In **CALVERT COUNTY**, Charles County, and Garrett County, “public school employee” includes Junior Reserve Officer Training Corps (JROTC) instructors.

(7) In Carroll County, “public school employee” includes:

(i) A registered nurse; and

(ii) Supervisory noncertificated employees as defined under § 6–501(h) of this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 392**

### **(House Bill 98)**

AN ACT concerning

#### **Department of Natural Resources – Tidal Fish Licenses – Transfer and Suspension**

FOR the purpose of prohibiting a certain temporary transferee of a tidal fish license from using the license or receiving a transfer of a certain license during a certain period of time under certain circumstances; altering the grounds for the suspension or revocation of a tidal fish license; repealing the grounds for a certain authorization; altering the requirements for certain regulations adopted by the Department of Natural Resources relating to the suspension and revocation of a license or authorization; and generally relating to tidal fish licenses issued by the Department of Natural Resources.

BY repealing and reenacting, with amendments,  
Article – Natural Resources  
Section 4–701(i) and (l)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

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

**Article – Natural Resources**

4–701.

(i) (1) A license or authorization may be transferred only under the provisions of this subsection.

(2) The Department shall review and may approve the permanent transfer of a license or an authorization to a person who is the licensee's spouse, daughter, son, stepchild, grandchild, stepgrandchild, parent, sister, brother, grandparent, father-in-law, mother-in-law, son-in-law, daughter-in-law, sister-in-law, or brother-in-law, and only:

(i) If the licensee makes application to the Department requesting transfer and the transferee has paid the fee for the license or authorization;  
or

(ii) Upon death of the licensee, if the licensee or an authorized representative of the licensee indicates or had indicated that person's name to the Department.

(3) (i) The Department may approve a temporary transfer for not less than 30 days and not more than 90 days.

(ii) A person may not transfer a license in exchange for any type of remuneration.

**(III) A TEMPORARY TRANSFEREE WHO IS CONVICTED OR RECEIVES A DISPOSITION OF PROBATION BEFORE JUDGMENT OR AN ACCEPTED PLEA OF NOLO CONTENDERE FOR A VIOLATION OF FEDERAL OR STATE FISHERIES LAW THAT RESULTS IN A LICENSE SUSPENSION MAY NOT USE A TIDAL FISH LICENSE ISSUED TO THE INDIVIDUAL OR RECEIVE A TRANSFER OF A TIDAL FISH LICENSE DURING THE PERIOD OF SUSPENSION.**

(4) (i) The Department shall establish by regulation a procedure for a licensee, except a fishing guide licensee or a master fishing guide licensee, to

voluntarily register the licensee's commercial fishing vessel number on the face of the license.

(ii) If a licensee has voluntarily registered the vessel number on the license under subparagraph (i) of this paragraph, the licensee may allow another person to use the vessel for the commercial activities authorized on the license.

(iii) If a licensee allows another person to utilize a vessel under subparagraph (ii) of this paragraph, for purposes of the license suspension criteria in subsection (k) of this section, the licensee shall be held responsible for any violations committed by the person using the vessel.

(5) (i) This paragraph applies only to:

1. A licensee who has held a valid tidal fish license in each of the three immediately preceding seasons; or

2. An authorized representative of a deceased licensee regardless of the number of seasons the deceased licensee held a valid tidal fish license.

(ii) The Department shall review and may approve a permanent transfer of a license or authorization under this paragraph to a person who has:

1. A. Purchased a vessel used for commercial fishing from the license holder; or

B. Purchased equipment and assets with a minimum value of \$2,000 and the commercial fishing business from the license holder;

2. Been a crew member for at least 2 years in any commercial fishery as certified by three tidal fish licensees;

3. Paid the fee for the license or authorization; and

4. Provided a notarized bill of sale.

(1) (1) In addition to any other penalty provided in this title, the Department may suspend or revoke a person's entitlement to engage in a particular activity or activities under a tidal fish license.

(2) During a period of suspension or revocation imposed by the Department, the person penalized is not and shall not be authorized under any existing, renewed, transferred, or new tidal fish license to engage in the particular activity or activities for which the suspension is imposed.

(3) The following are grounds for suspension or revocation of a tidal fish license [or an authorization under this section]:

(i) Making any false statement in an application for a tidal fish license;

(ii) [Conviction of a person for a violation under this title] **A SERIOUS VIOLATION OF ANY A STATE OR FEDERAL COMMERCIAL FISHERIES LAW THAT RESULTS IN A CONVICTION, A DISPOSITION OF PROBATION BEFORE JUDGMENT, OR AN ACCEPTED PLEA OF NOLO CONTENDERE;**

(iii) Failure to submit reports required by the provisions of this title or by the Department pursuant to provisions of this title; or

(iv) Failure for a nonresident of the State to appear in court pursuant to a citation issued by a Natural Resources police officer, or to any other process issued by any court of Maryland, for violation of this title.

(4) A penalty imposed in accordance with this subtitle shall be in addition to any other penalty authorized under § 4–1201 of this title regarding striped bass.

(5) The Department, in consultation with the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission, shall adopt regulations relating to the suspension and revocation of licenses and authorizations issued under this title, including:

(i) A schedule of points assigned to various offenses under this title;

(ii) A schedule of the maximum number of days that a license may be suspended according to the number of points accumulated;

(iii) Suspension or revocation of a license or authorization [or conviction of an offense under this title] **FOR A SERIOUS VIOLATION OF ANY A STATE OR FEDERAL COMMERCIAL FISHERIES LAW THAT RESULTS IN AN INDIVIDUAL RECEIVING A CONVICTION, DISPOSITION OF PROBATION BEFORE JUDGMENT, OR AN ACCEPTED PLEA OF NOLO CONTENDERE;**

(iv) Enhanced penalties for repeated violations of this title; and

(v) Enhanced penalties for violations of provisions of this title that regulate species deemed by the Department to be in need of special protection, including striped bass, crabs, oysters, and menhaden.

(6) Before the suspension or revocation of a tidal fish license under this section, the Department shall hold a hearing upon not less than 10 days' notice to the licensee, except that upon the failure of a nonresident of the State to appear in a court of this State as required by any charging document accusing the person of committing any offense under this title, in addition to any other appropriate action taken by the court or the Department, the Department may suspend immediately and without hearing any license issued to the person under this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 393

(House Bill 121)

AN ACT concerning

**Office of the Public Defender – Eligibility for Services – ~~Authorization to Access Agency Records~~ Requests for Employment Status and Income Information**

FOR the purpose of authorizing the Office of the Public Defender to ~~make cooperative agreements with~~ submit requests to the Department of Labor, Licensing, and Regulation, and the Comptroller, ~~and the State Department of Assessments and Taxation to allow the Office to have certain access to~~ for certain information regarding applicants for services of the Office; requiring a certain request to be accompanied by a certain authorization; requiring the Department of Labor, Licensing, and Regulation and the Comptroller to comply with certain requests; authorizing certain requests and responsive information to be exchanged by facsimile transmission; and generally relating to eligibility for services of the Office of the Public Defender.

BY repealing and reenacting, with amendments,  
 Article – Criminal Procedure  
 Section 16–210  
 Annotated Code of Maryland  
 (2008 Replacement Volume and 2009 Supplement)

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

### Article – Criminal Procedure

16–210.

(a) An individual may apply for services of the Office as an indigent individual, if the individual states in writing under oath or affirmation that the individual, without undue financial hardship, cannot provide the full payment of an attorney and all other necessary expenses of representation in proceedings listed under § 16–204(b) of this subtitle.

(b) (1) Eligibility for the services of the Office shall be determined by the need of the applicant.

(2) Need shall be measured according to the financial ability of the applicant to engage and compensate a competent private attorney and to provide all other necessary expenses of representation.

(3) Financial ability shall be determined by:

- (i) the nature, extent, and liquidity of assets;
- (ii) the disposable net income of the applicant;
- (iii) the nature of the offense;
- (iv) the length and complexity of the proceedings;
- (v) the effort and skill required to gather pertinent information;

and

(vi) any other foreseeable expense.

(4) If eligibility cannot be determined before the Office or a panel attorney begins representation, the Office may represent an applicant provisionally.

(5) If the Office subsequently determines that an applicant is ineligible:

(i) the Office shall inform the applicant; and

(ii) the applicant shall be required to engage the applicant's own attorney and reimburse the Office for the cost of the representation provided.

(c) (1) The Office shall investigate the financial status of an applicant when the circumstances warrant.

(2) The Office may:

(i) require an applicant to execute and deliver written requests or authorizations that are necessary under law to provide the Office with access to confidential records of public or private sources that are needed to evaluate eligibility; ~~and~~

(ii) on request, obtain information without charge from a public record office or other unit of the State, county, or municipal corporation; ~~AND.~~

~~(III) MAKE COOPERATIVE AGREEMENTS WITH THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, THE COMPTROLLER, AND THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION TO ALLOW THE OFFICE TO HAVE IMMEDIATE COMPUTER OR ELECTRONIC ACCESS TO INFORMATION REGARDING THE EMPLOYMENT STATUS, INCOME, AND REAL PROPERTY OWNERSHIP OF APPLICANTS.~~

(3) (I) THE OFFICE MAY SUBMIT REQUESTS TO THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION AND THE COMPTROLLER FOR INFORMATION REGARDING THE EMPLOYMENT STATUS AND INCOME OF APPLICANTS.

(II) EACH REQUEST SHALL BE ACCOMPANIED BY AN AUTHORIZATION FOR RELEASE OF INFORMATION THAT IS:

1. IN A FORM ACCEPTABLE TO THE AGENCY TO WHICH THE REQUEST IS SUBMITTED; AND

2. SIGNED BY THE APPLICANT.

(III) THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION AND THE COMPTROLLER SHALL COMPLY WITH REQUESTS FOR INFORMATION MADE BY THE OFFICE UNDER THIS PARAGRAPH.

(IV) REQUESTS AND RESPONSIVE INFORMATION MAY BE EXCHANGED BY FACSIMILE TRANSMISSION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

AN ACT concerning

**Department of Health and Mental Hygiene – Biomonitoring Program –  
Report**

FOR the purpose of requiring the Department of Health and Mental Hygiene, in consultation with the Department of the Environment, to conduct a certain study on the feasibility of establishing a biomonitoring program in the State and to make certain recommendations; requiring the Department of Health and Mental Hygiene to make a certain report to certain committees of the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to a report on the feasibility of establishing a biomonitoring program in the State.

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

(a) The Department of Health and Mental Hygiene, in consultation with the Department of the Environment, shall study the feasibility of establishing a biomonitoring program in the State to monitor the presence and concentration of designated chemicals in residents of Maryland.

(b) In conducting the study required under subsection (a) of this section, the Department of Health and Mental Hygiene shall:

(1) examine biomonitoring studies conducted by the federal government, in other states, and in other countries;

(2) examine legislative efforts in other states to establish biomonitoring programs;

(3) consider studies on the effectiveness of biomonitoring programs and the impact of those programs on health outcomes and health care costs;

(4) make recommendations regarding the chemicals that would be most beneficial to include in a biomonitoring program in this State; and

(5) make recommendations on the structure of a biomonitoring program for the State, if the Department of Health and Mental Hygiene finds that a biomonitoring program would be feasible.

(c) On or before June 30, 2011, the Department of Health and Mental Hygiene shall report to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, on the study required under subsection (a) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010. It shall remain effective for a period of 1 year and, at the end of June 30, 2011, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

**Approved by the Governor, May 4, 2010.**

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## Chapter 395

### (House Bill 197)

AN ACT concerning

#### **State Board of Barbers and State Board of Cosmetologists – Sunset Extension and Revisions**

FOR the purpose of continuing the State Board of Barbers and the State Board of Cosmetologists (boards) 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 boards; ~~altering the membership composition of the boards; prohibiting the boards from setting certain fees that exceed a certain amount;~~ requiring the boards to adopt certain regulations regarding certain curriculum standards; altering the requirements for the renewal of certain licenses issued by the boards; repealing a requirement that certain complaints be signed by a complainant; requiring certain complaints to contain certain information; altering the procedures for the inspection of certain barbershops, beauty salons, and cosmetology schools; providing that an individual may renew a certain apprentice registration one time; repealing the requirement that certain apprentice barbers take a certain examination at a certain time and authorizing the renewal of a certain apprentice registration based on the failure of a certain examination; requiring the State Board of Cosmetologists to reimburse certain inspectors for certain expenses under the Standard State Travel Regulations; authorizing the State Board of Cosmetologists to set certain licensing fees; ~~requiring the boards to pay certain fees to the State Comptroller; requiring the Comptroller to distribute certain fees into a certain fund; requiring the boards to pay certain fines into the General Fund of the State; establishing a State Barbers and Cosmetologists Boards' Fund as a special, nonlapsing fund in the Department of Labor, Licensing, and Regulation; requiring the Fund be used for certain purposes; providing for the administration of, auditing of, and distribution of money from the Fund;~~ requiring the boards to submit certain reports to certain committees of the General Assembly on or before certain dates; requiring the boards to ensure that certain license or license renewal expiration dates set by the boards do not terminate a license term before a certain period of time; defining certain terms; making certain stylistic and

technical changes; ~~providing for a delayed effective date for certain provisions of this Act;~~ and generally relating to the authority of the State Board of Barbers and the State Board of Cosmetologists.

BY repealing and reenacting, with amendments,

Article – Business Occupations and Professions

Section ~~4-202(a)~~, 4-206, ~~4-207~~, 4-310, 4-314(d), 4-405, 4-511(a) and (e),  
4-512, 4-702, ~~5-202(a)~~, 5-205, ~~5-208~~, 5-311, 5-314(c), 5-405, 5-509(d),  
5-520, and 5-702

Annotated Code of Maryland

(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,

Article – Business Occupations and Professions

Section 4-314(c) and 5-509(a)

Annotated Code of Maryland

(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,

Article – State Government

Section 8-403(a)

Annotated Code of Maryland

(2009 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – State Government

Section 8-403(b)(9) and (14)

Annotated Code of Maryland

(2009 Replacement Volume)

~~BY adding to~~

~~Article – Business Regulation~~

~~Section 2-106.7 and 2-106.8~~

~~Annotated Code of Maryland~~

~~(2004 Replacement Volume and 2009 Supplement)~~

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

### Article – Business Occupations and Professions

~~4-202.~~

~~(a) (1) The Board consists of 7 members.~~

~~(2) Of the 7 members of the Board:~~

(i) ~~[5] 6 shall be master barbers; and~~

(ii) ~~[2] 1 shall be A consumer [members] MEMBER.~~

~~(3) The Governor shall appoint the members with the advice of the Secretary.~~

4-206.

(a) (1) In addition to any powers set forth elsewhere, the Board may adopt any regulation to carry out this title.

(2) (i) The Board shall establish reasonable fees for examinations, licensing, licensing renewal, reinstatement, certification, applications, preopening inspections, per diem fees for Board members, compensation for inspectors appointed by the Board, and any other service performed by the Board necessary to carry out the provisions of this title.

(ii) **1.** Except for examination fees which the Board shall establish in amounts not to exceed the costs of the required examinations AND SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, the fees established by the Board shall be set in a manner that will produce funds sufficient to cover the actual direct and indirect costs of regulating the barber industry in this State in accordance with the provisions of this title.

**2. THE BOARD MAY NOT SET FEES FOR LICENSING AND LICENSE RENEWALS THAT EXCEED \$50.**

(iii) The total cost of regulating the barber industry in this State in accordance with the provisions of this title may not be more than the revenues generated by the fees established under subparagraph (i) of this paragraph.

**(B) (1) THE BOARD SHALL ADOPT REGULATIONS THAT ESTABLISH DETAILED CURRICULUM STANDARDS FOR USE BY THE STATE BOARD OF EDUCATION OR THE MARYLAND HIGHER EDUCATION COMMISSION IN APPROVING APPLICATIONS FOR INSTRUCTION IN THE PRACTICE OF BARBERING AT PUBLIC SCHOOLS OR PRIVATE CAREER SCHOOLS.**

**(2) THE CURRICULUM STANDARDS ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:**

**(I) INCORPORATE MODERN METHODS AND PRACTICES OF BARBERING;**

(II) INCLUDE A REFERENCE TO EACH TOPIC AND THE EMPHASIS OF EACH TOPIC REQUIRED OF A COMPREHENSIVE BARBERING CURRICULUM; AND

(III) BE REVIEWED AND UPDATED PERIODICALLY AS DETERMINED BY THE BOARD.

[(b)] (C) In addition to any duties set forth elsewhere, the Board shall administer and enforce this title.

4–310.

(A) THE INITIAL TERM OF A LICENSE IS 2 YEARS.

[(a)] (B) [Unless a] A license EXPIRES ON THE DATE SET BY THE BOARD UNLESS THE LICENSE is renewed for [a 2–year] AN ADDITIONAL term as provided in this section[, the license expires on the first May 31 that comes:

- (1) after the effective date of the license; and
- (2) in an odd–numbered year].

[(b)] (C) At least 1 month before a license expires, the Board shall mail to the licensee, at the last known address of the licensee:

- (1) a renewal application form; and
- (2) a notice that states:
  - (i) the date on which the current license expires;
  - (ii) the date by which the Board must receive the renewal application for the renewal to be issued and mailed before the license expires; and
  - (iii) the amount of the renewal fee.

[(c)] (D) Before a license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

- (1) otherwise is entitled to be licensed;
- (2) pays to the Board a renewal fee established by the Board in accordance with § 4–206 of this title; and
- (3) submits to the Board a renewal application on the form that the Board provides.

**[(d)] (E)** The Board shall renew the license of and issue a renewal certificate to each licensee who meets the requirements of this section.

**[(e)]** The Secretary may determine that master barber licenses issued under this subtitle shall expire on a staggered basis.]

4-314.

(c) The Board shall commence proceedings under this section on a complaint to the Board by a member of the Board or any person.

(d) (1) A complaint shall:

(i) be in writing;

(ii) **[be signed by the complainant] INCLUDE THE NAME AND NECESSARY CONTACT INFORMATION OF THE INDIVIDUAL FILING THE COMPLAINT, AS DETERMINED BY THE BOARD;**

(iii) state specifically the facts on which the complaint is based;

(iv) be submitted to the Executive Director of the Board; and

(v) be served on the person to whom it is directed:

1. personally; or

2. by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the person's last known address as shown on the Board's records.

(2) If service is made by certified mail, the person who mails the document shall file with the Board verified proof of mailing.

(3) If a complaint is made by any person other than a member of the Board, the complaint shall be made under oath by the person who submits the complaint.

4-405.

(a) (1) The initial term of registration as an apprentice barber is 2 years.

(2) **[Before the initial term of registration as an apprentice barber expires, the apprentice barber shall take the journey barber examination.**

(3) If an apprentice barber fails the journey barber examination, the] AN apprentice barber may renew the apprentice barber registration [1] ONE time [with the approval of the Board].

(b) The [1 time] ONE-TIME renewal of an apprentice barber registration [is effective until the first May 31 that comes:

(1) after the first renewal is issued; and

(2) in an odd-numbered year] **EXPIRES ON THE DATE SET BY THE BOARD.**

(c) At least 1 month before registration as an apprentice barber expires, the Board shall mail to the apprentice barber, at the last known address of the apprentice barber:

(1) a renewal application form; and

(2) a notice that states:

(i) the date on which the current registration as an apprentice barber expires;

(ii) the date by which the Board must receive the renewal application for the renewal to be approved, issued, and mailed before the registration expires; and

(iii) the amount of the renewal fee.

**(D) BEFORE THE REGISTRATION OF AN INDIVIDUAL EXPIRES, THE INDIVIDUAL MAY RENEW IT FOR AN ADDITIONAL TERM IF THE INDIVIDUAL:**

**(1) OTHERWISE IS ENTITLED TO BE REGISTERED;**

**(2) PAYS TO THE BOARD A RENEWAL FEE ESTABLISHED BY THE BOARD IN ACCORDANCE WITH § 4-206 OF THIS TITLE; AND**

**(3) SUBMITS TO THE BOARD A RENEWAL APPLICATION ON THE FORM THAT THE BOARD PROVIDES.**

[(d)] **(E)** The Board shall renew the apprentice barber registration of and issue a renewal certificate to each apprentice barber who meets the requirements of this section.

[(e) The Board may determine that apprentice barber licenses issued under this subtitle shall expire on a staggered basis.]

4-511.

(a) The Board may adopt regulations to ensure that each barber school approved by the State [Department] **BOARD** of Education or the Maryland Higher Education Commission is operated in a sanitary manner.

(e) (1) A complaint shall:

(i) be in writing;

(ii) [be signed by the complainant] **INCLUDE THE NAME AND NECESSARY CONTACT INFORMATION OF THE INDIVIDUAL FILING THE COMPLAINT, AS DETERMINED BY THE BOARD;**

(iii) state specifically the facts on which the complaint is based;

(iv) be submitted to the Executive Director of the Board; and

(v) be served on the person to whom it is directed:

1. personally; or

2. by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the person's last known address as shown on the Board's records.

(2) If service is made by certified mail, the person who mails the document shall file with the Board verified proof of mailing.

(3) If a complaint is made by any person other than a member of the Board, the complaint shall be made under oath by the person who submits the complaint.

4-512.

(a) (1) With the approval of the Secretary, the Board may appoint inspectors to conduct inspections.

(2) An inspector serves at the pleasure of the Board.

(3) Subject to the State budget, each inspector is entitled to:

(i) reasonable compensation as determined by the Board for each day on which the inspector is engaged in the duties of the inspector's appointment; and

(ii) reimbursement for expenses under the Standard State Travel Regulations.

(b) **(1) THE BOARD SHALL INSPECT BARBERSHOPS.**

**[(1)] (2)** The Board or an inspector shall inspect each barbershop before **[it] THE BARBERSHOP:**

- (i) initially opens for business;
- (ii) opens for business at a new location; or
- (iii) continues business under a new owner.

**[(2)] (3)** A barbershop that remodels and reopens with the same owner is not subject to the inspection requirement of this subsection.

(c) (1) The Board or an inspector may enter and inspect a **[barbershop or] barber school APPROVED BY THE STATE BOARD OF EDUCATION OR THE MARYLAND HIGHER EDUCATION COMMISSION** at any time during business hours to determine the sanitary condition of the **[barbershop or] barber school**.

(2) If, during an inspection of a **[barbershop or] barber school**, an inspector finds an unsanitary condition, the inspector promptly shall report the condition to the Board.

**(D) (1) A BARBERSHOP SHALL ALLOW AN INSPECTOR, ON PRESENTATION OF CREDENTIALS, TO ENTER AND INSPECT THE FACILITY AT ANY TIME DURING BUSINESS HOURS.**

**(2) DURING INSPECTION OF A BARBERSHOP, THE OWNER, LESSEE, OR MANAGER OF THE BARBERSHOP SHALL ACCOMPANY THE INSPECTOR.**

**(E) (1) AN INSPECTOR SHALL MAKE AN INSPECTION REPORT AFTER AN INSPECTION AND GIVE A COPY TO THE INDIVIDUAL WHO ACCOMPANIED THE INSPECTOR DURING THE INSPECTION.**

**(2) THE INDIVIDUAL SHALL SIGN THE INSPECTION REPORT FOR THE BARBERSHOP TO ACKNOWLEDGE RECEIPT OF A COPY OF THE REPORT.**

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, [2011] **2021**.

~~5-202.~~

- (a) ~~(1) The Board consists of seven members.~~
- ~~(2) Of the seven members of the Board:~~
- ~~(i) [four] FIVE shall be licensed cosmetologists;~~
- ~~(ii) one shall be affiliated with a private cosmetology school as an educator or owner; and~~
- ~~(iii) [two] ONE shall be A consumer [members] MEMBER.~~
- ~~(3) The Governor shall appoint the members with the advice of the Secretary.~~

5-205.

- (a) In addition to any duties set forth elsewhere, the Board shall adopt:
- (1) bylaws for the conduct of its proceedings;
- (2) regulations for qualification and examination of applicants for licenses, registration, and permits and issuance of licenses, certificates of registration, and permits;
- (3) regulations to govern the conduct of persons regulated under this title;
- (4) regulations to govern sanitation and safety in practicing cosmetology, including regulations that establish precautions to prevent the spread of infectious and contagious diseases; and
- (5) regulations to govern the direct supervision of the operation of limited practice beauty salons.
- (b) (1) [Subject to paragraph (4) of this subsection, the] **THE** Board shall establish reasonable fees for **LICENSING, LICENSING RENEWAL**, examinations, reinstatements, certifications, applications, preopening inspections, per diem fees for Board members, compensation for inspectors appointed by the Board, and for any other service performed by the Board necessary to carry out the provisions of this title.

(2) **(I)** Except for the examination fees which the Board shall establish in amounts not to exceed the costs of the examinations **AND SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH**, the fees established by the Board shall be set in a manner that will produce funds sufficient to cover the actual direct and indirect costs of regulating the cosmetology industry in the State in accordance with the provisions of this title.

**(II) THE BOARD MAY NOT SET FEES FOR LICENSING AND LICENSE RENEWALS THAT EXCEED \$50.**

(3) The total cost of regulating the cosmetology industry in the State in accordance with the provisions of this title may not be more than the revenues generated by the fees established under paragraph (1) of this subsection.

[(4) The Board shall require a \$25 fee for the licensure or renewal of licensure of cosmetologists, senior cosmetologists, estheticians, and nail technicians.]

**(C) (1) THE BOARD SHALL ADOPT REGULATIONS THAT ESTABLISH DETAILED CURRICULUM STANDARDS FOR USE BY THE STATE BOARD OF EDUCATION OR THE MARYLAND HIGHER EDUCATION COMMISSION IN APPROVING APPLICATIONS FOR INSTRUCTION IN THE PRACTICE OF COSMETOLOGY, THE PROVISION OF ESTHETIC SERVICES, AND THE PROVISION OF NAIL TECHNICIAN SERVICES AT PUBLIC SCHOOLS OR PRIVATE CAREER SCHOOLS.**

**(2) THE CURRICULUM STANDARDS ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:**

**(I) INCORPORATE MODERN METHODS AND PRACTICES FOR:**

- 1. PRACTICING COSMETOLOGY;**
- 2. PROVIDING ESTHETIC SERVICES; AND**
- 3. PROVIDING NAIL TECHNICIAN SERVICES;**

**(II) INCLUDE A REFERENCE TO EACH TOPIC AND THE EMPHASIS OF EACH TOPIC REQUIRED OF A COMPREHENSIVE CURRICULUM IN THE APPROPRIATE LICENSING AREA; AND**

**(III) BE REVIEWED AND UPDATED PERIODICALLY AS DETERMINED BY THE BOARD.**

**(A) THE INITIAL TERM OF A LICENSE IS 2 YEARS.**

**[(a) (B)]** [Unless a] **A license EXPIRES ON THE DATE SET BY THE BOARD UNLESS THE LICENSE** is renewed for [a 2-year] **AN ADDITIONAL** term as provided in this section[, the license expires on the first October 31 that comes:

- (1) after the effective date of the license; and
- (2) in an odd-numbered year].

**[(b) (C)]** At least 1 month before a license expires, the Board shall mail to the licensee, at the last known address of the licensee:

- (1) a renewal application form; and
- (2) a notice that states:
  - (i) the date on which the current license expires;
  - (ii) the date by which the Board must receive the renewal application for the renewal to be issued and mailed before the license expires; and
  - (iii) the amount of the renewal fee.

**[(c) (D)]** Before a license expires, the licensee periodically may renew it for an additional 2-year term, if the licensee:

- (1) otherwise is entitled to be licensed;
- (2) pays to the Board a renewal fee established by the Board in accordance with § 5-205 of this title; and
- (3) submits to the Board a renewal application on the form that the Board provides.

**[(d) (E)]** The Board shall renew the license of and issue a renewal certificate to each licensee who meets the requirements of this section.

**[(e)]** The Secretary may determine that licenses issued under this subtitle shall expire on a staggered basis.]

**(f) (1)** If an individual who, on or before September 30, 1999, holds a limited license to provide esthetic services files an application to renew the license, the Board shall grant a waiver of the requirement for completion of hours of instruction under § 5-305(c)(3)(ii) of this subtitle that are in addition to the hours of instruction required on or before that date.

(2) If an individual who, on or before September 30, 1999, holds a limited license to provide manicuring services files an application to renew the license, the Board shall grant a waiver of the requirement for completion of hours of instruction under § 5–305(d)(3)(ii) of this subtitle that are in addition to the hours of instruction required on or before that date.

5–314.

(c) (1) The Board shall commence proceedings under this section on a complaint to the Board by a member of the Board or any person.

(2) A complaint shall:

(i) be in writing;

(ii) [be signed by the complainant] **INCLUDE THE NAME AND NECESSARY CONTACT INFORMATION OF THE INDIVIDUAL FILING THE COMPLAINT, AS DETERMINED BY THE BOARD;**

(iii) state specifically the facts on which the complaint is based;

(iv) be submitted to the Executive Director of the Board; and

(v) be served on the person to whom it is directed:

1. personally; or

2. by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the person's last known address as shown on the Board's records.

(3) If service is made by certified mail, the person who mails the document shall file with the Board verified proof of mailing.

5–405.

**(A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (G) OF THIS SECTION, THE INITIAL TERM OF REGISTRATION AS AN APPRENTICE IS 2 YEARS.**

**[(a)] (B)** Unless registration as an apprentice is renewed for [a 1–year] **ONE ADDITIONAL 2–YEAR** term as provided in this section, the registration expires on the [first October 31 after its effective] date **SET BY THE BOARD.**

**[(b)] (C)** At least 1 month before the registration of an individual expires, the Board shall mail to the individual, at the last known address of the individual:

- (1) a renewal application form; and
- (2) a notice that states:
  - (i) the date on which the current registration expires;
  - (ii) the date by which the Board must receive the renewal application for the renewal to be issued and mailed before the registration expires; and
  - (iii) the amount of the renewal fee.

**[(c)] (D)** Before the registration of an individual expires, the individual **[periodically]** may renew it for an additional term, if the individual:

- (1) otherwise is entitled to be registered;
- (2) pays to the Board a renewal fee established by the Board in accordance with § 5–205 of this title; and
- (3) submits to the Board a renewal application on the form that the Board provides.

**[(d)] (E)** **[An] EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (G) OF THIS SECTION, AN** individual registered as an apprentice may renew the registration only **[twice] ONE TIME FOR A 2–YEAR TERM.**

**[(e)] (F)** The Board shall renew the registration of and issue a renewal certificate to each individual who meets the requirements of this section.

**[(f)] (G)** A **[limited practice apprentice]** registration **AS AN APPRENTICE FOR ANY LIMITED PRACTICE OF COSMETOLOGY** expires 12 months after the date of its issuance unless~~[, in the discretion of the Board,]~~ the limited practice apprentice registration is **[extended] RENEWED FOR ONE 1–YEAR TERM.**

5–509.

(a) The Board may adopt regulations to ensure that each cosmetology school approved by the State Board of Education or the Maryland Higher Education Commission is operated in a sanitary manner.

(d) The Board shall commence proceedings to assess a penalty under this section on a complaint to the Board by a member of the Board or any person.

- (1) A complaint shall:

- (i) be in writing;
- (ii) [be signed by the complainant] **INCLUDE THE NAME AND NECESSARY CONTACT INFORMATION OF THE INDIVIDUAL FILING THE COMPLAINT, AS DETERMINED BY THE BOARD;**
- (iii) state specifically the facts on which the complaint is based;
- (iv) be submitted to the Executive Director of the Board; and
- (v) be served on the person to whom it is directed:
  - 1. personally; or
  - 2. by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the person's last known address as shown on the Board's records.

(2) If service is made by certified mail, the person who mails the document shall file with the Board verified proof of mailing.

5–520.

- (a) (1) The Board may appoint inspectors to conduct inspections.
- (2) Subject to the State budget, each inspector is entitled to:
  - (I) reasonable compensation set by the Board for each day on which the inspector is engaged in the duties of the appointment; **AND**
  - (II) **REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS.**
- (b) (1) The Board shall inspect beauty salons.
- (2) The Board [may] **SHALL** inspect the facilities of applicants for beauty salon permits **BEFORE THE BEAUTY SALON:**
  - (I) **INITIALLY OPENS FOR BUSINESS;**
  - (II) **OPENS FOR BUSINESS AT A NEW LOCATION; OR**
  - (III) **CONTINUES BUSINESS UNDER A NEW OWNER.**

**(3) A BEAUTY SALON THAT REMODELS AND REOPENS WITH THE SAME OWNER IS NOT SUBJECT TO THE INSPECTION REQUIREMENT OF THIS SUBSECTION.**

**[(3) (C) (1)]** The Board or an inspector may enter and inspect a cosmetology school approved by the State Board of Education or the Maryland Higher Education Commission at any time during business hours to determine the sanitary condition of the cosmetology school.

**(2) IF, DURING AN INSPECTION OF A COSMETOLOGY SCHOOL, AN INSPECTOR FINDS AN UNSANITARY CONDITION, THE INSPECTOR PROMPTLY SHALL REPORT THE CONDITION TO THE BOARD.**

**[(c) (D) (1)]** A beauty salon [or cosmetology school] shall allow an inspector, on presentation of credentials, to enter and inspect the facility at any time during business hours.

**(2)** During inspection of a beauty salon, the owner [or], lessee, **OR MANAGER** of the beauty salon shall accompany the inspector.

**[(3)]** During inspection of a cosmetology school, the owner or lessee of or a teacher at the school shall accompany the inspector.]

**[(d) (E) (1)]** An inspector shall make an inspection report after an inspection and give a copy to the individual who accompanied the inspector during the inspection.

**(2)** The individual shall sign the inspection report for the beauty salon or cosmetology school to acknowledge receipt of a copy of the report.

5-702.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, [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:

(9) Barbers, State Board of (§ 4-201 of the Business Occupations and Professions Article: July 1, [2010] **2020**);

(14) Cosmetologists, State Board of (§ 5-201 of the Business Occupations and Professions Article: July 1, [2010] **2020**);

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

~~Article – Business Occupations and Professions~~

~~4-207.~~

~~(A) (1) The Board shall pay all [money] LICENSING FEES collected under this title [into the General Fund of the State] TO THE COMPTROLLER.~~

~~(2) THE COMPTROLLER SHALL DISTRIBUTE THE LICENSING FEES TO THE STATE BARBERS AND COSMETOLOGISTS BOARDS' FUND ESTABLISHED IN § 2-106.7 OF THE BUSINESS REGULATION ARTICLE.~~

~~(B) THE BOARD SHALL PAY ALL FINES COLLECTED UNDER THIS TITLE INTO THE GENERAL FUND OF THE STATE.~~

~~5-208.~~

~~(A) (1) The Board shall pay all [money] LICENSING FEES collected under this title [into the General Fund of the State] TO THE COMPTROLLER.~~

~~(2) THE COMPTROLLER SHALL DISTRIBUTE THE LICENSING FEES TO THE STATE BARBERS AND COSMETOLOGISTS BOARDS' FUND ESTABLISHED IN § 2-106.7 OF THE BUSINESS REGULATION ARTICLE.~~

~~(B) THE BOARD SHALL PAY ALL FINES COLLECTED UNDER THIS TITLE INTO THE GENERAL FUND OF THE STATE.~~

~~Article – Business Regulation~~

~~2-106.7.~~

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

~~(2) "BOARDS" MEANS THE STATE BOARD OF BARBERS ESTABLISHED UNDER TITLE 4 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE AND THE STATE BOARD OF COSMETOLOGISTS ESTABLISHED UNDER TITLE 5 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.~~

~~(3) "FUND" MEANS THE STATE BARBERS AND COSMETOLOGISTS BOARDS' FUND.~~

~~(B) (1) THERE IS A STATE BARBERS AND COSMETOLOGISTS BOARDS' FUND IN THE DEPARTMENT.~~

~~(2) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

~~(C) THE FUND CONSISTS OF LICENSING FEES COLLECTED BY THE BOARDS AND DISTRIBUTED TO THE FUND UNDER §§ 4-207 AND 5-208 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.~~

~~(D) THE FUND SHALL BE USED TO COVER THE ACTUAL DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY DUTIES OF THE BOARDS.~~

~~(E) THE SECRETARY OR A DESIGNEE OF THE SECRETARY SHALL ADMINISTER THE FUND.~~

~~(F) INVESTMENT EARNINGS SHALL BE DISTRIBUTED TO THE GENERAL FUND OF THE STATE.~~

~~(G) FOR ANY FISCAL YEAR BEGINNING ON OR AFTER JULY 1, 2011, ANY BALANCE IN THE FUND AT THE END OF THE FISCAL YEAR IN EXCESS OF 25% OF THE ACTUAL EXPENSES OF OPERATING THE BOARDS FOR THAT FISCAL YEAR REVERTS TO THE GENERAL FUND OF THE STATE.~~

~~(H) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND TRANSACTIONS OF THE FUND AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT ARTICLE.~~

~~2-106.8.~~

~~(A) IN THIS SECTION, “BOARDS” MEANS THE STATE BOARD OF BARBERS AND THE STATE BOARD OF COSMETOLOGISTS.~~

~~(B) IN CONSULTATION WITH THE BOARDS, THE SECRETARY SHALL ANNUALLY CALCULATE THE DIRECT AND INDIRECT COSTS ATTRIBUTABLE TO THE BOARDS.~~

~~(C) BEGINNING ON JULY 1, 2011, EACH OF THE BOARDS SHALL ESTABLISH FEES BASED ON THE CALCULATIONS PROVIDED BY THE SECRETARY UNDER THIS SECTION.~~

SECTION ~~3~~ 2. AND BE IT FURTHER ENACTED, That the State Board of Barbers and the State Board of Cosmetologists shall submit, in accordance with § 2–1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee:

(a) on or before October 1, 2010, a report on the boards’ plan to increase licensee compliance with the license photograph regulation as set forth in Recommendation 2 contained in the Sunset Review of the State Board of Barbers and the State Board of Cosmetologists published by the Department of Legislative Services in October 2009 and a copy of the boards’ plan to improve the apprentice programs; and

(b) on or before October 1, 2011, an interim report on the boards’ actions concerning the nonstatutory recommendations contained in the Sunset Review of the State Board of Barbers and the State Board of Cosmetologists published by the Department of Legislative Services in October 2009, including a description of the boards’ progress on implementing the plans required under subsection (a) of this section.

SECTION 3. AND BE IT FURTHER ENACTED, That, when setting the date on which a license or a license renewal expires under §§ 4–310, 4–405, 5–311, and 5–405 of the Business Occupations and Professions Article, as enacted by Section 1 of this Act, the State Board of Barbers and the State Board of Cosmetologists shall ensure that the date set by the board does not terminate a license term before the end of a licensee’s full 2-year term.

~~SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2011.~~

SECTION ~~5~~ 4. AND BE IT FURTHER ENACTED, That, ~~except as provided in Section 4 of this Act,~~ this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

**Chapter 396****(House Bill 200)**

AN ACT concerning

**Health Occupations – Morticians and Funeral Directors – Licenses**

FOR the purpose of requiring an applicant for a funeral director's license to pass the arts and sciences State board examinations administered by a certain entity; requiring the Maryland State Board of Morticians and Funeral Directors to advise applicants for certain licenses of certain information; and generally relating to licenses for morticians and funeral directors.

BY repealing and reenacting, with amendments,  
Article – Health Occupations  
Section 7–303  
Annotated Code of Maryland  
(2009 Replacement Volume)

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

**Article – Health Occupations**

7–303.

(a) (1) The Board shall determine the qualifications necessary for an individual to lawfully engage in the practice of mortuary science or funeral direction and to operate a funeral establishment within this State.

(2) Except as otherwise provided in this subtitle, to qualify for a mortician or funeral director license, an applicant shall be an individual who meets the requirements of this section.

(b) The Board shall examine all applications for licensure for the practice of mortuary science or funeral direction and shall issue the mortician or funeral director license to an individual who:

(1) Is judged to be of good moral character;

(2) Has completed not less than 1 year and not more than 2 years of licensed apprenticeship, unless the Board allowed extensions for additional 1–year terms;

(3) Except as otherwise provided in this section, has graduated with an associate of arts degree in mortuary science or its equivalent from a school accredited by the American Board of Funeral Service Education or approved by the Board, or has acquired at least an associate of arts degree and completed a course in mortuary science that is accredited by the American Board of Funeral Service Education or approved by the Board;

(4) **[Has] FOR AN INDIVIDUAL APPLYING FOR A LICENSE TO PRACTICE AS A MORTICIAN**, passed the national board examination administered by the Conference of Funeral Service Examining Boards of the United States;

(5) **FOR AN INDIVIDUAL APPLYING FOR A LICENSE TO PRACTICE AS A FUNERAL DIRECTOR, PASSED THE ARTS AND SCIENCES STATE BOARD EXAMINATIONS, ADMINISTERED BY THE CONFERENCE OF FUNERAL SERVICE EXAMINING BOARDS OF THE UNITED STATES;**

(6) Except as provided in subsection (c) of this section, has passed a written examination on Maryland law and regulations governing the practice of mortuary science and a practical examination demonstrating competency in the preparation of dead human bodies for final disposition and sanitary science; and

**[(6)] (7)** Has submitted an application to the Board on the required form and has paid a fee set by the Board.

(c) For an individual applying for a license to practice funeral direction, the practical examination qualification under subsection **[(b)(5)] (B)(6)** of this section may not include demonstrating competency in embalming.

**(D) THE BOARD SHALL ADVISE EACH APPLICANT THAT A LICENSE ISSUED UNDER SUBSECTION (B) OF THIS SECTION DOES NOT GUARANTEE THAT THE APPLICANT WILL BE ALLOWED TO PRACTICE IN ANY OTHER STATE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 397

**(House Bill 202)**

AN ACT concerning

**Uniform Commercial Code – Financing Statements – ~~Termination by  
Government Employees~~ False Filings – Prohibited**

FOR the purpose of ~~authorizing certain government employees to file certain termination statements with respect to certain financing statements; providing for the contents of the termination statement; requiring a certain filing office to send a copy of the termination statement to a certain secured party along with a certain notice; providing that on the filing of the termination statement, a certain financing statement ceases to be effective as to the government employee; authorizing the secured party to file an action to reinstate a financing statement under certain circumstances; requiring the secured party to provide a certain certified copy of a certain judgment to a certain filing office under certain circumstances; requiring the filing office to file the judgment in a certain manner; providing that on the filing of a certain judgment, a certain financing statement shall be effective and shall be considered never to have been ineffective as against a certain person; authorizing the secured party to file a continuation statement under certain circumstances; providing that a fee may not be charged for the filing of the termination statement; providing that the secured party shall pay the costs, reasonable attorney's fees, and expenses incurred by a government employee in a certain action under certain circumstances; making certain conforming and stylistic changes; defining a certain term; and generally relating to the termination of financing statements by government employees~~ providing that a person who files a financing statement or an amendment to a financing statement that the person knows contains false information is subject to a certain penalty; prohibiting a person from filing a financing statement or an amendment to a financing statement that the person knows contains false information; providing a penalty for a violation of certain provisions of this Act; and generally relating to financing statements.

BY repealing and reenacting, with amendments,  
 Article – Commercial Law  
 Section ~~9-513 and 9-515(d)~~ 9-509  
 Annotated Code of Maryland  
 (2002 Replacement Volume and 2009 Supplement)

BY adding to  
Article – Criminal Law  
Section 9-508  
Annotated Code of Maryland  
(2002 Volume and 2009 Supplement)

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

**Article – Commercial Law**

9-509.

(a) A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

(1) The debtor authorizes the filing in an authenticated record or pursuant to subsection (b) or (c); or

(2) The person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(b) By authenticating or becoming bound as a debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(1) The collateral described in the security agreement; and

(2) Property that becomes collateral under § 9-315(a)(2), whether or not the security agreement expressly covers proceeds.

(c) By acquiring collateral in which a security interest or agricultural lien continues under § 9-315(a)(1), a debtor authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under § 9-315(a)(2).

(d) A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(1) The secured party of record authorizes the filing; or

(2) The amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by § 9-513, the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

(e) If there is more than one secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (d).

**(F) A PERSON WHO FILES A FINANCING STATEMENT OR AN AMENDMENT TO A FINANCING STATEMENT THAT THE PERSON KNOWS CONTAINS FALSE INFORMATION IS SUBJECT TO THE PENALTY PROVIDED IN § 9-508 OF THE CRIMINAL LAW ARTICLE.**

Article – Criminal Law9-508.

(A) IN THIS SECTION, “FINANCING STATEMENT” HAS THE MEANING STATED IN § 9-102 OF THE COMMERCIAL LAW ARTICLE.

(B) A PERSON MAY NOT FILE A FINANCING STATEMENT OR AN AMENDMENT TO A FINANCING STATEMENT THAT THE PERSON KNOWS CONTAINS FALSE INFORMATION.

(C) (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500.

(2) EACH ACT OF FILING A FINANCING STATEMENT OR AN AMENDMENT TO A FINANCING STATEMENT IS A SEPARATE VIOLATION.

~~9-513.~~

~~(a) A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:~~

~~(1) There is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or~~

~~(2) The debtor did not authorize the filing of the initial financing statement.~~

~~(b) To comply with subsection (a), a secured party shall cause the secured party of record to file the termination statement:~~

~~(1) Within 1 month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or~~

~~(2) If earlier, within 20 days after the secured party receives an authenticated demand from a debtor.~~

~~(c) In cases not governed by subsection (a), within 20 days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:~~

~~(1) Except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;~~

~~(2) The financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;~~

~~(3) The financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or~~

~~(4) The debtor did not authorize the filing of the initial financing statement.~~

~~(D) (1) IN THIS SUBSECTION, "GOVERNMENT EMPLOYEE" MEANS:~~

~~(A) AN ELECTED OR APPOINTED OFFICIAL OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE;~~

~~(B) AN EMPLOYEE OF:~~

~~(I) THE STATE;~~

~~(II) A COUNTY, MUNICIPAL CORPORATION, OR OTHER POLITICAL SUBDIVISION OF THE STATE; OR~~

~~(III) A UNIT OF THE STATE GOVERNMENT OR OF A POLITICAL SUBDIVISION OF THE STATE; OR~~

~~(C) A MEMBER OF AN AUTHORITY, BOARD, OR COMMISSION ESTABLISHED BY THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.~~

~~(2) A GOVERNMENT EMPLOYEE WHO IS LISTED AS A DEBTOR ON A FINANCING STATEMENT BECAUSE OF THE OFFICE OR POSITION HELD BY THE GOVERNMENT EMPLOYEE, AND WHO DID NOT AUTHORIZE THE FILING OF THE FINANCING STATEMENT, MAY FILE A TERMINATION STATEMENT FOR THE FINANCING STATEMENT.~~

~~(3) A TERMINATION STATEMENT FILED UNDER THIS SUBSECTION SHALL STATE THAT:~~

~~(A) THE DEBTOR IS A GOVERNMENT EMPLOYEE; AND~~

~~(B) THE GOVERNMENT EMPLOYEE DID NOT AUTHORIZE THE FILING OF THE FINANCING STATEMENT.~~

~~(4) ON THE FILING OF A TERMINATION STATEMENT UNDER THIS SUBSECTION, THE FILING OFFICE SHALL SEND A COPY OF THE TERMINATION STATEMENT BY FIRST CLASS MAIL TO THE SECURED PARTY OF RECORD FOR THE FINANCING STATEMENT ALONG WITH A NOTICE STATING THAT THE FINANCING STATEMENT HAS BEEN TERMINATED.~~

~~(5) ON THE FILING OF A TERMINATION STATEMENT UNDER THIS SUBSECTION, THE FINANCING STATEMENT TO WHICH THE TERMINATION STATEMENT RELATES CEASES TO BE EFFECTIVE AS TO THE GOVERNMENT EMPLOYEE.~~

~~(6) (A) IF THE SECURED PARTY BELIEVES IN GOOD FAITH THAT THE FINANCING STATEMENT WAS AUTHORIZED AND PROPERLY FILED, THE SECURED PARTY, WITHIN 60 DAYS AFTER THE DATE THE NOTICE OF TERMINATION IS SENT, MAY FILE AN ACTION TO REINSTATE THE FINANCING STATEMENT IN THE CIRCUIT COURT WHERE THE FILING OFFICE IS LOCATED OR WHERE THE GOVERNMENT EMPLOYEE RESIDES.~~

~~(B) IF THE COURT DETERMINES THAT THE FINANCING STATEMENT SHOULD BE REINSTATED, THE SECURED PARTY SHALL PROVIDE A CERTIFIED COPY OF THE FINAL JUDGMENT TO THE FILING OFFICE.~~

~~(C) ON RECEIPT, THE FILING OFFICE SHALL FILE THE JUDGMENT IN A MANNER THAT IDENTIFIES THE FINANCING STATEMENT TO WHICH THE FINAL JUDGMENT RELATES AND INDICATES THAT THE FINANCING STATEMENT HAS BEEN REINSTATED.~~

~~(7) (A) ON THE FILING OF A FINAL JUDGMENT REINSTATING A FINANCING STATEMENT UNDER PARAGRAPH (6) OF THIS SUBSECTION, THE FINANCING STATEMENT SHALL BE EFFECTIVE AND SHALL BE CONSIDERED NEVER TO HAVE BEEN INEFFECTIVE AS AGAINST A PERSON THAT IS NOT A PURCHASER OF THE COLLATERAL FOR VALUE.~~

~~(B) IF A FINANCING STATEMENT THAT IS REINSTATED WOULD HAVE LAPSED DURING THE PERIOD OF TERMINATION, THE SECURED PARTY MAY FILE A CONTINUATION STATEMENT WITHIN 30 DAYS AFTER THE FINAL JUDGMENT OF THE COURT REINSTATING THE FINANCING STATEMENT IS FILED.~~

~~(8) A FEE MAY NOT BE CHARGED FOR A FILING OF A TERMINATION STATEMENT UNDER THIS SUBSECTION.~~

~~(9) IF THE COURT IN AN ACTION TO REINSTATE A FINANCING STATEMENT DETERMINES THAT THE FINANCING STATEMENT IS FRAUDULENT, THE SECURED PARTY OF RECORD THAT FILED THE FINANCING STATEMENT SHALL PAY THE COSTS, REASONABLE ATTORNEY'S FEES, AND EXPENSES INCURRED BY THE GOVERNMENT EMPLOYEE IN THE ACTION.~~

~~[(d)](E) Except as otherwise provided in § 9-510, AND SUBJECT TO SUBSECTION (D)(5) OF THIS SECTION, [upon] ON the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in § 9-510, for purposes of §§ 9-519(f), 9-522(a), and 9-523(b), the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.~~

~~9-515.~~

~~(d) [A] EXCEPT AS PROVIDED IN § 9-513(D), A continuation statement may be filed only within six months before the expiration of the five-year period specified in subsection (a), the 30-year period specified in subsection (b), or the date the financing statement ceases to be effective under § 9-705(e) of this title, whichever is applicable.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 398

(House Bill 209)

AN ACT concerning

### General Obligation Bonds for Capital Projects – Required Reports

FOR the purpose of requiring that an enabling act for certain projects that authorizes the creation of a State debt for at least a certain amount to be used by certain entities contain a provision that requires the grantee to submit certain reports to the Governor's Office of Minority Affairs by certain dates regarding the extent to which the entity has used, or will use, certain funds for contracts with minority-owned businesses; requiring that the Governor's Office of Minority Affairs provide a certain form and annually report to certain committees of the

General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the provisions of an enabling act authorizing the creation of a State debt.

BY repealing and reenacting, with amendments,  
 Article – State Finance and Procurement  
 Section 8–117  
 Annotated Code of Maryland  
 (2009 Replacement Volume)

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

**Article – State Finance and Procurement**

8–117.

(a) The General Assembly may authorize the Board to:

- (1) borrow money for any public purpose; and
- (2) issue State bonds to evidence the debt.

(b) An enabling act shall specify the total principal amount of the debt authorized by the enabling act.

(c) An enabling act may take substantially the following form:

“A BILL ENTITLED

AN ACT concerning

Creation of a State Debt – (Name of Project)

FOR the purpose of authorizing the creation of a State debt not to exceed \$....., (for an enabling act that requires an equal matching fund)/ in the amount of \$....., (for an enabling act that requires no matching fund or a lesser matching fund) the proceeds to be used as a grant to ..... (name of grantee) for certain development or improvement purposes; providing for disbursement of the loan proceeds, subject to the requirement that the grantee provide and expend a matching fund (if the enabling act requires a matching fund); and providing generally for the issuance and sale of bonds evidencing the loan.

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 ... (name of project) Loan of ... (year) equal to the lesser of (i) \$... or (ii) the amount of the matching fund provided in accordance with Section 1(5) below. (For an enabling act that requires an equal matching fund)/ in the total principal amount of \$.... (for an enabling act that requires no matching fund or a lesser matching fund). This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees: as a grant to .... (name of grantee) (referred to hereafter in this Act as “the grantee”) (for an enabling act that requires a matching fund) for (here state the purpose or purposes to which the proceeds of the bonds are to be applied).

(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 this Act shall take effect June 1, .... (year)”.

(d) (1) If an enabling act requires an equal matching fund, the fifth paragraph is as follows:

“(5) Prior to the payment of any funds under the provisions of this Act for the purposes set forth in Section 1(3) above, the grantee shall provide and expend a matching fund. No part of the grantee’s matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. No part of the fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act. In case of any dispute as to the amount of the matching fund or what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter and the Board’s decision is final. The grantee has until June 1, ... (2 years from the effective date of the Act), to present evidence satisfactory to the Board of Public Works that a matching fund will be provided. If satisfactory evidence is presented, the Board shall certify this fact and the amount of the matching fund to the State Treasurer, and the proceeds of

the loan equal to the amount of the matching fund shall be expended for the purposes provided in this Act. Any amount of the loan in excess of the amount of the matching fund certified by the Board of Public Works shall be canceled and be of no further effect.”.

(2) If an enabling act requires a lesser matching fund, the fifth paragraph is as follows:

“(5) Prior to the payment of any funds under the provisions of this Act for the purposes set forth in Section 1(3) above, the grantee shall provide and expend a matching fund of \$ ..., (amount of the matching fund to be provided by the grantee). No part of the grantee’s matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. No part of the fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act. In case of any dispute as to the amount of the matching fund or what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter and the Board’s decision is final. The grantee has until June 1, ... (2 years from the effective date of the Act), to present evidence satisfactory to the Board of Public Works that a matching fund will be provided. If satisfactory evidence is presented, the Board shall certify this fact to the State Treasurer, and the proceeds of the loan shall be expended for the purposes provided in this Act.”.

(e) An enabling act may also contain the following paragraph:

“The proceeds of the loan must be expended or encumbered by the Board of Public Works for the purposes provided in this Act no later than June 1, .... (7 years from the effective date of the Act). If any funds authorized by this Act remain unexpended or unencumbered after June 1, .... (7 years from the effective date of the Act), the amount of the unencumbered or unexpended authorization shall be canceled and be of no further effect. If bonds have been issued for the loan, the amount of unexpended or unencumbered bond proceeds shall be disposed of as provided in § 8–129 of the State Finance and Procurement Article.”.

(f) An enabling act under this section may contain:

(1) an additional provision for all or part of the principal of and interest on the State bonds issued under the enabling act to be paid primarily from sources of funds other than a State tax on assessable property; and

(2) any other additional provision that is appropriate to the purpose of the enabling act and the nature of State bonds.

**(G) (1) AN ENABLING ACT FOR A CAPITAL PROJECT THAT AUTHORIZES THE CREATION OF A STATE DEBT OF AT LEAST \$500,000 FOR A HOSPITAL OR INSTITUTION OF HIGHER EDUCATION THAT IS NOT SUBJECT TO**

THE REPORTING REQUIREMENT UNDER ~~§ 24-305~~ § 14-305 OF THIS ARTICLE SHALL INCLUDE THE FOLLOWING PARAGRAPH:

“ON OR BEFORE DECEMBER 31 OF ANY YEAR IN WHICH THE PAYMENT OF ANY FUNDS UNDER THE PROVISIONS OF THIS ACT FOR THE PURPOSES OF A CAPITAL PROJECT AS SET FORTH IN SECTION 1(3) ABOVE IS MADE AND ON OR BEFORE DECEMBER 31 OF THE YEAR FOLLOWING A YEAR IN WHICH THE PAYMENT OF ANY FUNDS UNDER THE PROVISIONS OF THIS ACT FOR THE PURPOSES SET FORTH IN SECTION 1(3) ABOVE IS MADE, THE GRANTEE SHALL SUBMIT A REPORT TO THE GOVERNOR’S OFFICE OF MINORITY AFFAIRS ON THE EXTENT TO WHICH THE GRANTEE HAS USED, OR WILL USE, ANY PART OF THE FUNDS RECEIVED UNDER THE PROVISIONS OF THIS ACT FOR CONTRACTS WITH MINORITY-OWNED BUSINESSES AND ANY MINORITY BUSINESS OUTREACH EFFORTS.”

(2) THE GOVERNOR’S OFFICE OF MINORITY AFFAIRS SHALL PROVIDE A SINGLE FORM FOR ALL REPORTS SUBMITTED UNDER THIS SUBSECTION.

(3) ON OR BEFORE ~~DECEMBER 1~~ JULY 1 OF EACH YEAR, THE GOVERNOR’S OFFICE OF MINORITY AFFAIRS SHALL REPORT TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE INFORMATION SUBMITTED TO THE GOVERNOR’S OFFICE OF MINORITY AFFAIRS UNDER THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010. It shall remain effective for a period of 3 years and, at the end of September 30, 2013, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 4, 2010.

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## Chapter 399

(House Bill 233)

AN ACT concerning

**Howard County Public Schools – Funding Accountability and Transparency Act**

## Ho. Co. 12-10

FOR the purpose of requiring the Howard County Board of Education to develop and operate a certain website that includes certain information about certain payments; specifying certain parameters of the website; defining certain terms; and generally relating to the development and operation of a searchable website by the Howard County Board of Education.

BY adding to

Article – Education

Section 5-116

Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

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

**Article – Education**

**5-116.**

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

**(2) (I) “PAYEE” MEANS ANY PARTY WHO RECEIVES FROM THE HOWARD COUNTY BOARD OF EDUCATION AN AGGREGATE PAYMENT OF \$25,000 IN A FISCAL YEAR.**

**(II) “PAYEE” DOES NOT INCLUDE:**

**1. A HOWARD COUNTY PUBLIC SCHOOL EMPLOYEE WITH RESPECT TO THE EMPLOYEE’S COMPENSATION; OR**

**2. A HOWARD COUNTY PUBLIC SCHOOL RETIREE WITH RESPECT TO THE RETIREE’S RETIREMENT ALLOWANCE.**

**(3) “SEARCHABLE WEBSITE” MEANS A WEBSITE CREATED IN ACCORDANCE WITH THIS SECTION THAT DISPLAYS AND SEARCHES PAYMENT DATA OF THE HOWARD COUNTY BOARD OF EDUCATION.**

**(B) ON OR BEFORE JANUARY 1, 2012, THE HOWARD COUNTY BOARD OF EDUCATION SHALL DEVELOP AND OPERATE A SINGLE SEARCHABLE WEBSITE ACCESSIBLE TO THE PUBLIC AT NO COST THROUGH THE INTERNET.**

(C) THE SEARCHABLE WEBSITE SHALL CONTAIN HOWARD COUNTY BOARD OF EDUCATION PAYMENT DATA INCLUDING:

- (1) THE NAME OF A PAYEE RECEIVING A PAYMENT;
- (2) THE LOCATION OF A PAYEE BY ZIP CODE; AND
- (3) THE AMOUNT OF A PAYMENT.

(D) THE SEARCHABLE WEBSITE SHALL ALLOW THE USER TO:

(1) SEARCH DATA FOR FISCAL YEAR 2011 AND EACH YEAR THEREAFTER; AND

(2) SEARCH BY THE FOLLOWING DATA FIELDS:

- (I) A PAYEE RECEIVING A PAYMENT; AND
- (II) THE ZIP CODE OF A PAYEE RECEIVING A PAYMENT.

(E) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE THE DISCLOSURE OF INFORMATION THAT IS CONFIDENTIAL UNDER FEDERAL, STATE, OR LOCAL LAW.

(F) THIS SECTION SHALL BE KNOWN AND MAY BE CITED AS THE “HOWARD COUNTY PUBLIC SCHOOLS FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT”.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 400

(House Bill 242)

AN ACT concerning

**Real Property – Mobile Home Park – Rental Agreement – Term of Payment**

FOR the purpose of providing that a rental agreement for a site in a mobile home park may not require an annual payment of rent; providing that a prospective

resident may request, and a park owner may agree to, an annual payment of rent for the site; ~~altering the allowable terms of payment required to be contained in a rental agreement~~ providing for the application of this Act; and generally relating to the term of payment in a rental agreement for a mobile home park site.

BY repealing and reenacting, without amendments,  
Article – Real Property  
Section 8A–101(a) and (i)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
Article – Real Property  
Section 8A–201  
Annotated Code of Maryland  
(2003 Replacement Volume and 2009 Supplement)

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

**Article – Real Property**

8A–101.

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

(i) “Rental agreement” means any written understanding between a resident and park owner whereby the resident is entitled to place his mobile home on a site in the park for payment of consideration to the park owner.

8A–201.

(A) Before a current or prospective resident signs a rental agreement or occupies the premises a park owner shall:

(1) Provide the prospective resident with a written notice identifying the availability, capacity, and connection fee of all utility services at the proposed site in order to assure the proper and adequate installation of the mobile home. The prospective resident shall furnish to the park owner a written acknowledgment of this notification and acceptance of the site as proposed.

(2) Deliver a copy of the rules and an explanation of any provision for amendment of the rule.

(3) Deliver a copy of the rental agreement which shall contain the following:

- (i) A specific identification of the site to be leased;
- (ii) A term of tenancy of at least 1 year;
- (iii) A stipulation of:
  - 1. The total amount of annual rental for the site;
  - 2. The term of payment, whether monthly, quarterly, ~~OR~~ semiannually~~†~~, or annually~~†~~;
  - 3. The amount due for each installment;
  - 4. The amount of any late payment fee; and
  - 5. All park fees, in a manner that identifies the service to be provided for each park fee;
- (iv) A description of each general obligation of the resident and park owner;
- (v) A description of each service, facility, and utility service that the park owner will provide;
- (vi) A description of any termination and renewal option;
- (vii) The text of § 8A-202(c) of this subtitle, which defines “qualified resident”; and
- (viii) A specific reference to this title as the law that governs the relationships between the resident and park owner.

**(B) (1) A RENTAL AGREEMENT MAY NOT REQUIRE AN ANNUAL PAYMENT OF RENT FOR A SITE.**

**(2) A PROSPECTIVE RESIDENT MAY REQUEST AND A PARK OWNER MAY AGREE THAT THE RESIDENT MAKE AN ANNUAL PAYMENT OF RENT FOR THE SITE.**

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 rental agreement for a mobile home park site executed before the effective date of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 401

(House Bill 272)

AN ACT concerning

### Classroom Placement – Multiple-Birth Children – Parental Discretion

FOR the purpose of authorizing the parent or guardian of multiple-birth children to request the classroom placement of the children under certain circumstances; providing for the application of this Act; requiring a parent or guardian to make a certain request in a certain manner within a certain period of time; requiring a school to provide the classroom placement requested by certain parents or guardians; authorizing a principal to determine a certain classroom placement for certain children if a certain determination is made by the principal in consultation with certain classroom teachers after a certain period of time; ~~providing that certain parents or guardians may appeal a certain classroom placement decision of a principal to the county board of education; requiring that certain children remain in a certain classroom placement during a certain appeal~~; authorizing a school to recommend a certain classroom placement to certain parents or guardians or provide certain professional advice to assist certain parents or guardians regarding classroom placement for multiple-birth children; prohibiting a county board from adopting a certain policy; defining a certain term; and generally relating to parental discretion for the classroom placement of multiple-birth children.

BY adding to

Article – Education

Section 7-120

Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

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

### Article – Education

7-120.

(A) IN THIS SECTION, “MULTIPLE-BIRTH CHILDREN” MEANS TWINS, TRIPLETS, QUADRUPLETS, QUINTUPLETS, OR MORE.

(B) THIS SECTION APPLIES ONLY TO CHILDREN ENTERING KINDERGARTEN THROUGH SECOND GRADE.

~~(B)~~ (C) (1) THE PARENT OR GUARDIAN OF MULTIPLE-BIRTH CHILDREN MAY REQUEST THAT THE MULTIPLE-BIRTH CHILDREN OR CERTAIN GROUPS OF THE MULTIPLE-BIRTH CHILDREN BE PLACED IN THE SAME CLASSROOM OR SEPARATE CLASSROOMS IF THE CHILDREN ARE IN THE SAME GRADE LEVEL AT THE SAME SCHOOL.

(2) THE PARENT OR GUARDIAN SHALL MAKE THE REQUEST IN WRITING TO THE SCHOOL PRINCIPAL WITHIN 14 DAYS AFTER:

(I) THE FIRST DAY OF SCHOOL; OR

(II) IF THE CHILDREN WERE ENROLLED IN THE SCHOOL AFTER THE SCHOOL YEAR HAS COMMENCED, THE FIRST DAY OF ATTENDANCE OF THE CHILDREN.

~~(C)~~ (D) EXCEPT AS PROVIDED IN SUBSECTION ~~(D)~~ (E) OF THIS SECTION, A SCHOOL SHALL PROVIDE THE CLASSROOM PLACEMENT REQUESTED BY THE PARENT OR GUARDIAN UNDER SUBSECTION ~~(B)~~ (C) OF THIS SECTION.

~~(D)~~ (E) (1) AT THE END OF ~~THE LATER OF THE FIRST GRADING PERIOD FOLLOWING THE CHILDREN’S ENROLLMENT OR 60~~ 30 DAYS, IF THE PRINCIPAL OF THE SCHOOL, IN CONSULTATION WITH THE TEACHER OF EACH CLASSROOM IN WHICH THE CHILDREN ARE PLACED, DETERMINES THAT THE REQUESTED CLASSROOM PLACEMENT IS DISRUPTIVE TO THE SCHOOL, THE PRINCIPAL MAY DETERMINE THE APPROPRIATE CLASSROOM PLACEMENT FOR THE CHILDREN.

~~(2) (I) A PARENT OR GUARDIAN MAY APPEAL A DECISION OF THE PRINCIPAL UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE COUNTY BOARD.~~

~~(II) DURING AN APPEAL TAKEN UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE CHILDREN SHALL REMAIN IN THE CLASSROOM CHOSEN BY THE PARENT OR GUARDIAN.~~

~~(E)~~ (F) THE SCHOOL MAY:

(1) RECOMMEND TO A PARENT OR GUARDIAN THE APPROPRIATE CLASSROOM PLACEMENT FOR THE MULTIPLE-BIRTH CHILDREN; OR

(2) PROVIDE PROFESSIONAL EDUCATIONAL ADVICE TO ASSIST A PARENT OR GUARDIAN REGARDING CLASSROOM PLACEMENT FOR THE MULTIPLE-BIRTH CHILDREN.

~~(F)~~ (G) A COUNTY BOARD MAY NOT ADOPT A CLASSROOM PLACEMENT POLICY OF AUTOMATICALLY SEPARATING OR PLACING TOGETHER MULTIPLE-BIRTH CHILDREN.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 402

(House Bill 277)

AN ACT concerning

**Howard County and Prince George's County – Tax Sales – Auctioneers' Fees**

**Ho. Co. 4-10**

FOR the purpose of altering the fees auctioneers are allowed at tax sales in Howard County and Prince George's County; and generally relating to tax sales in Howard County and Prince George's County.

BY repealing and reenacting, with amendments,  
 Article – Tax – Property  
 Section 14-813(e)  
 Annotated Code of Maryland  
 (2007 Replacement Volume and 2009 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, **HOWARD COUNTY**, Kent County, **PRINCE**

GEORGE'S 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 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, **HOWARD COUNTY**, PRINCE GEORGE'S COUNTY, and Talbot County, \$10 for each property sold.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

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**Chapter 403****(House Bill 292)**

AN ACT concerning

**Health Insurance – Uniform Consultation Referral Form – Electronic  
Transmission**

FOR the purpose of authorizing a health care provider to transmit the uniform consultation referral form electronically; requiring the Maryland Insurance Commissioner, in consultation with the Maryland Health Care Commission, to adopt by regulation standards for the electronic transmission of the data elements contained in the uniform consultation referral form; and generally relating to the uniform consultation referral form.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 15–119 and 15–120

Annotated Code of Maryland

(2006 Replacement Volume and 2009 Supplement)

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

**Article – Insurance**

15–119.

(a) This section applies to insurers and nonprofit health service plans that issue or deliver individual, group, or blanket health insurance policies in the State.

(b) An entity subject to this section that requires insureds to have a written referral to receive consultation services shall use the uniform consultation referral form adopted by the Commissioner under § 15–120 of this subtitle as the sole instrument for referrals for consultation services.

(c) An entity subject to this section may not impose as a condition of coverage a requirement to:

(1) modify the uniform consultation referral form; or

(2) submit additional consultation referral forms.

(d) The uniform consultation referral form:

(1) shall be properly completed by the health care provider that refers the insured for consultation services; AND

(2) MAY BE TRANSMITTED ELECTRONICALLY.

15-120.

(a) Subject to subsection (b) of this section, the Commissioner shall adopt by regulation a uniform consultation referral form for use by insurers, nonprofit health service plans, and health maintenance organizations that require insureds or subscribers to have a written referral to receive consultation services.

(b) The Commissioner may waive the requirements of regulations adopted under subsection (a) of this section for the use of uniform consultation referral forms for an entity that uses the forms solely for internal purposes.

(c) THE COMMISSIONER, IN CONSULTATION WITH THE MARYLAND HEALTH CARE COMMISSION, SHALL ADOPT BY REGULATION STANDARDS FOR THE ELECTRONIC TRANSMISSION OF THE DATA ELEMENTS CONTAINED IN THE UNIFORM CONSULTATION REFERRAL FORM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 404

(House Bill 318)

AN ACT concerning

### **Business Regulation – Secondhand Precious Metal Object Dealers**

FOR the purpose of repealing a certain provision of law authorizing a secondhand precious metal object dealer to transact business for a certain period of time at a certain event; providing that a license to do business as a dealer may be used only to benefit the licensee; authorizing only licensed dealers to make certain advertisements; requiring a certain advertisement to include certain information; requiring dealers to retain the original copy of a certain record at a certain location; authorizing a dealer to request a certain extension; requiring the Secretary of Labor, Licensing, and Regulation to distribute certain information to licensed dealers or post the information on the Department of

Labor, Licensing, and Regulation website; and generally relating to regulation of secondhand precious metal object dealers.

BY repealing and reenacting, with amendments,

Article – Business Regulation

Section 12–206, 12–207(f), 12–208, 12–301(a), and 12–304(b)

Annotated Code of Maryland

(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,

Article – Business Regulation

Section 12–303

Annotated Code of Maryland

(2004 Replacement Volume and 2009 Supplement)

BY adding to

Article – Business Regulation

Section 12–401(g)

Annotated Code of Maryland

(2004 Replacement Volume and 2009 Supplement)

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

### **Article – Business Regulation**

12–206.

(a) A license authorizes the licensee to do business as a dealer only at the address for which the license is issued.

(b) Notwithstanding subsection (a) of this section, [and except as provided in subsection (c) of this section,] a dealer who holds a license under this subtitle may:

(1) [transact business as a dealer for up to 7 consecutive days at an event that takes place at a location other than the fixed business address at which a transaction may occur after giving written notice at least 7 days in advance of the event to the primary law enforcement unit and to the local law enforcement unit with jurisdiction over the place where the event will be held;

(2)] make purchases at an estate and judicial sale; and

[(3)] (2) transact business at the residence of the owner of a precious metal object or a place where the owner keeps a precious metal object:

(i) on request of the owner; and

(ii) after giving written notice of the proposed transaction and its location to the local law enforcement unit with jurisdiction over that location.

[(c) A dealer is not required to comply with subsection (b)(1) of this section unless the dealer, or the dealer's employee or agent, has acquired space at a location other than the fixed business address at which a transaction may occur or has published notice of or advertised the event by any means.]

12-207.

(f) A license is not transferable **AND MAY BE USED ONLY TO BENEFIT THE LICENSEE.**

12-208.

(A) Each licensee shall display the license conspicuously in the place of business of the licensee.

**(B) (1) ONLY A LICENSED DEALER MAY ADVERTISE FOR THE COMMERCIAL TRADING WITH THE PUBLIC OR ACQUIRING FROM THE PUBLIC IN SECONDHAND PRECIOUS METAL OBJECTS.**

**(2) AN ADVERTISEMENT FOR THE COMMERCIAL TRADING WITH THE PUBLIC OR ACQUIRING FROM THE PUBLIC IN SECONDHAND PRECIOUS METAL OBJECTS ~~AT A LOCATION OTHER THAN THE LICENSEE'S FIXED BUSINESS ADDRESS~~ SHALL INCLUDE THE NAME AND LICENSE NUMBER OF THE LICENSEE, IN COMPLIANCE WITH APPLICABLE REGULATIONS ADOPTED BY THE DEPARTMENT.**

12-301.

(a) (1) Each dealer shall make a written record, on a form provided by the Secretary, of each business transaction that involves the acquisition of a secondhand precious metal object when the transaction is made.

**(2) EACH DEALER SHALL RETAIN THE ORIGINAL COPY OF THE WRITTEN RECORD REQUIRED TO BE MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION AT THE DEALER'S PLACE OF BUSINESS.**

12-303.

Unless otherwise authorized by the Secretary, a dealer shall keep the records required by this subtitle, at a location within the State, for 3 years after the date of the transaction.

12-304.

(b) (1) [The] **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE** dealer shall submit the records by transmitting the required information from the records electronically, in a format acceptable to the receiving law enforcement unit, by noon of the next business day.

(2) **A DEALER MAY REQUEST AN EXTENSION OF UP TO 48 HOURS TO SUBMIT THE RECORDS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

12-401.

(G) **THE SECRETARY SHALL DISTRIBUTE TO LICENSED DEALERS OR POST ON THE DEPARTMENT'S WEBSITE THE NAME OF THE PRIMARY LAW ENFORCEMENT UNIT RESPONSIBLE FOR ENFORCING THIS TITLE IN EACH JURISDICTION, INCLUDING MUNICIPALITIES.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 405**

**(House Bill 345)**

AN ACT concerning

**State Government – State Designations – Review, Evaluation, and  
Recommendation by the State Archivist**

FOR the purpose of authorizing the State Archivist to review, evaluate, and make recommendations to the General Assembly regarding State designations under certain circumstances; requiring the State Archivist to review, evaluate, and make recommendations to the General Assembly regarding State designations under certain circumstances; and generally relating to recommendations and advice regarding State designations.

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 9-1007  
Annotated Code of Maryland

(2009 Replacement Volume)

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

**Article – State Government**

9–1007.

(a) In addition to any powers set forth elsewhere, the State Archivist may:

(1) adopt regulations to:

(i) govern the Archives;

(ii) manage the Hall of Records Building and other real and personal property that the Archives acquires;

(iii) manage the records under the supervision of the Archives;  
and

(iv) define the categories of records in the report of the Records Management Division under § 10–634 of this article; [and]

(2) have a seal; AND

**(3) ON REQUEST, OR AT THE STATE ARCHIVIST'S DISCRETION, REVIEW, EVALUATE, AND MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY REGARDING STATE DESIGNATIONS UNDER TITLE 13 OF THIS ARTICLE.**

**(B) AT THE REQUEST OF THE PRESIDENT OF THE SENATE ~~OR~~, THE SPEAKER OF THE HOUSE, THE CHAIR OF THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, OR THE CHAIR OF THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, THE STATE ARCHIVIST SHALL REVIEW, EVALUATE, AND MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY REGARDING STATE DESIGNATIONS UNDER TITLE 13 OF THIS ARTICLE.**

**[(b)] (C)** (1) The State Archivist may establish reasonable fees for the care and preservation of records and other services provided by the Archives.

(2) Fees may be in the form of:

(i) a percentage not to exceed 2% of an existing fee charged at the time of the creation of a record in any form or format; or

(ii) a flat rate subscription charge for a publication of the Archives.

(3) Of the fees collected, 7% shall be deposited in the Archives Endowment Account of the State Archives Fund established under § 9–1013 of this subtitle as an educational and entrepreneurial reserve.

**[(c)] (D)** The State Archivist shall submit to the Governor and, subject to § 2–1246 of this article, to the General Assembly an annual report on the activities of the Archives and the Commission during the preceding fiscal year.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 406**

### **(House Bill 356)**

AN ACT concerning

#### **Forest Product Operators – Standards, Procedures, and Enforcement**

FOR the purpose of establishing an application process for a forest product operator's license, including required demonstration of compliance with certain workers' compensation laws and payment of a certain fee; providing for the term of a forest product operator's license; establishing certain standards and requirements that apply to a forest product operator license holder; repealing certain obsolete provisions of law governing inspections of woodlands by district forestry boards and leases on woodlands for timber harvesting purposes; authorizing the Department of Natural Resources to suspend or revoke the license of a forest product operator under certain circumstances; providing for notice of, an administrative hearing for, and judicial review of the suspension or revocation of a forest product operator's license; authorizing the recovery of court costs and reasonable attorney's fees in certain civil actions brought against a forest product operator; authorizing the Department to adopt certain regulations; making certain stylistic changes; and generally relating to forest product operators.

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 5–608

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

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

**Article – Natural Resources**

5–608.

(a) **(1) (I)** Any person engaged in a forest products business shall have a **FOREST PRODUCT OPERATOR’S** license issued by the Department.

**(II)** The license is secured from the Department for every type of forest products manufacturing plant.

**(III)** Before any sawmill or other plant is erected for the manufacture of lumber or other forest products or when the location of any manufacturing plant is to be changed, the location shall be reported to the Department prior to erection of the plant or the change of location.

**(2) AN APPLICANT FOR A LICENSE SHALL:**

**(I) SUBMIT TO THE DEPARTMENT AN APPLICATION ON THE FORM THAT THE DEPARTMENT PROVIDES;**

**(II) DEMONSTRATE COMPLIANCE WITH THE MARYLAND WORKERS’ COMPENSATION ACT UNDER TITLE 9 OF THE LABOR AND EMPLOYMENT ARTICLE; AND**

**(III) PAY TO THE DEPARTMENT A FEE SET BY THE DEPARTMENT IN AN AMOUNT NOT TO EXCEED THE COSTS OF CARRYING OUT THIS SECTION.**

**(3) THE TERM OF A LICENSE IS 1 YEAR.**

(b) Each person to whom this subtitle applies shall:

(1) Leave conditions favorable for regrowth. Any forest land on which cuttings are made shall be left by the operator in a favorable condition for regrowth, in order to maintain sufficient growing stock to supply raw materials for industry and furnish employment for forest communities continuously, if possible, or without long interruption;

(2) Leave young growth. As far as feasible, every desirable seedling and sapling shall be protected during logging operations. Except where unavoidable in

logging, immature trees may not be cut for any purpose except to improve the spacing, quality, and composition or conditions for restocking, or to obtain timber or wood for home use;

(3) Arrange for restocking land after cutting by leaving trees of desirable species of suitable size singly, or in groups, well distributed and in a number to secure restocking. If the board approves, however, clear-cutting may be performed;

(4) Maintain adequate growing stock after partial cutting or selective logging. Rules and regulations of the Department, defining standards of forest practice to obtain and maintain adequate growing stock in the different forest types, may vary with different forest types of the State;

(5) [Provide for leases and timber cutting rights. The provisions of this subtitle and any rule or regulation promulgated under it apply to the owner of the land or stumpage, and to any person whose operation is in timber, trees, or wood held under a lease or cutting rights on June 1, 1943. However, due consideration shall be given to ownership equities existing on June 1, 1943, in order to avoid causing unreasonable hardship. Any lease or cutting right entered into after June 1, 1943, is unreservedly subject thereto. Any owner or operator on his own forest property or property leased to him, may develop and inaugurate his own alternate plan of management and employ standards and methods to accomplish the purpose of this subtitle, as specified in paragraphs (2), (3), and (4) of this subsection, provided the plan is submitted on forms the Department furnishes to the board having jurisdiction and the board accepts the plan as one which gives reasonable assurance of accomplishing the purposes of this subtitle. In arriving at its decision, the board shall consider, among other factors, economic conditions of the area in which the land is situated, the valuation and rates for tax purposes, and social and economic effects of the proposed alternate plan. A landowner may present working plans for cutting and management of his forest to the board for approval. These plans shall be for the period prescribed by the Department. The Department shall furnish the necessary forms. Free advice and assistance of the Department is available to forest owners as far as possible; and

(6) Make application for inspection] **CONDUCT TIMBER HARVESTING OPERATIONS IN ACCORDANCE WITH THE SEDIMENT AND EROSION CONTROL STANDARDS UNDER TITLE 4 OF THE ENVIRONMENT ARTICLE;**

**(6) ACCURATELY REPORT TO THE DEPARTMENT THE QUALITY, QUANTITY, AND SPECIES OF FIREWOOD SOLD OR DELIVERED IN ACCORDANCE WITH TITLE 11 OF THE AGRICULTURE ARTICLE;**

**(7) COMPLY WITH THE TERMS OF ANY APPLICABLE FEDERAL, STATE, OR LOCAL PERMIT, LICENSE, OR APPROVAL;**

**(8) COMPLETE AND SUBMIT TO THE DEPARTMENT AN ANNUAL TIMBER CONSUMPTION REPORT; AND**

**(9) COMPLY WITH THE STANDARDS OF PRACTICE ADOPTED BY THE DEPARTMENT.**

[(c) Within three years, but not less than 30 days preceding a cutting, the owner of woodlands or his agent may apply to the board for inspection of the woodlands proposed to be cut. The application shall be made to the board of the district in which the lands are located, and shall state the location of the woodland, its approximate acreage, and the proposed cutting plan.

(d) Within 30 days after receipt of the application required under subsection (c), the board shall make or cause to be made by a qualified person, an examination of the woodlands covered in the application. The board, within a reasonable time, shall advise the owner or his agent, in writing, of the most practical and satisfactory method of cutting the woodland and assent to the method found best adapted.]

**(C) (1) THE DEPARTMENT MAY SUSPEND OR REVOKE THE LICENSE OF A FOREST PRODUCT OPERATOR FOR FAILURE TO COMPLY WITH THIS SUBTITLE.**

**(2) BEFORE SUSPENDING OR REVOKING A LICENSE UNDER THIS SUBSECTION, THE DEPARTMENT, IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, SHALL:**

**(I) SEND BY REGISTERED OR CERTIFIED MAIL WRITTEN NOTICE OF THE BASIS OF THE SUSPENSION OR REVOCATION TO THE LICENSE HOLDER AT THE LAST KNOWN ADDRESS OF THE LICENSE HOLDER; AND**

**(II) HOLD A HEARING ON THE LICENSE SUSPENSION OR REVOCATION IF THE LICENSE HOLDER REQUESTS THE HEARING WITHIN 2 WEEKS AFTER RECEIVING THE WRITTEN NOTICE.**

**(3) A PERSON AGGRIEVED BY A FINAL DECISION OF THE DEPARTMENT IN A CONTESTED CASE RELATING TO A LICENSE SUSPENSION OR REVOCATION UNDER THIS SUBSECTION MAY APPEAL AS AUTHORIZED UNDER §§ 10-222 AND 10-223 OF THE STATE GOVERNMENT ARTICLE.**

[(e)] **(D)** The provisions of this section do not apply to cutting firewood and timber for domestic use for the owner or his tenant, but apply to all cutting not specifically excepted.

(E) IN A CIVIL ACTION BEFORE A COURT OF COMPETENT JURISDICTION, A PERSON WHO SUFFERS DAMAGES AS A RESULT OF A VIOLATION OF THIS SECTION BY A LICENSE HOLDER MAY RECOVER COURT COSTS AND REASONABLE ATTORNEY'S FEES.

(F) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 407

(House Bill 372)

AN ACT concerning

### **Business Occupations and Professions – Plumbers – Lead-Free Materials**

FOR the purpose of prohibiting certain plumbing materials containing more than a certain amount of lead from being used in the installation or repair of plumbing intended to dispense water for human consumption; prohibiting the sale of certain plumbing materials containing more than a certain amount of lead; requiring the State Board of Plumbing to adopt certain regulations; defining certain terms; providing for a delayed effective date; and generally relating to the lead content of materials used in plumbing.

BY adding to

Article – Business Occupations and Professions  
Section 12-101(h-1) and (q), 12-605.1, and 12-605.2  
Annotated Code of Maryland  
(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Business Occupations and Professions  
Section 12-205(b)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,

Article – Business Occupations and Professions  
Section 12-605(a)(1)

Annotated Code of Maryland  
(2004 Replacement Volume and 2009 Supplement)

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

**Article – Business Occupations and Professions**

12–101.

**(H–1) “LEAD–FREE” MEANS:**

**(1) CONTAINING NOT MORE THAN 0.2% LEAD FOR SOLDER AND FLUX;**

**(2) ~~EXCEPT AS PROVIDED IN ITEM (3) OF THIS SUBSECTION,~~ CONTAINING NOT MORE THAN:**

**~~(I) 4% LEAD BY DRY WEIGHT FOR PLUMBING FITTINGS AND FIXTURES; OR~~**

**~~(II) 8% LEAD BY DRY WEIGHT FOR PIPES AND PIPE FITTINGS; AND~~**

**(3) CONTAINING A PERCENTAGE OF LEAD FOR PLUMBING FITTINGS AND FIXTURES THAT IS IN COMPLIANCE WITH STANDARDS ESTABLISHED UNDER 42 U.S.C.A. § 300G–6(E) OF THE FEDERAL SAFE DRINKING WATER ACT; AND**

**~~(3)~~ (4) CONTAINING NOT MORE THAN A WEIGHTED AVERAGE LEAD CONTENT OF 0.25% FOR THE WETTED SURFACES OF A PIPE, PIPE FITTING, PLUMBING FITTING, OR FIXTURE INTENDED TO DISPENSE WATER FOR HUMAN CONSUMPTION THROUGH DRINKING OR COOKING.**

**(Q) “WEIGHTED AVERAGE LEAD CONTENT” MEANS A CALCULATION DETERMINED BY:**

**(1) IDENTIFYING EACH COMPONENT OF A PIPE, PIPE FITTING, PLUMBING FITTING, OR FIXTURE THAT WATER FLOWS THROUGH AND COMES INTO CONTACT WITH DURING NORMAL OPERATION;**

**(2) IDENTIFYING THE PERCENTAGE LEAD CONTENT OF EACH COMPONENT OF THE PIPE, PIPE FITTING, PLUMBING FITTING, OR FIXTURE;**

(3) DETERMINING THE WETTED SURFACE AREA OF EACH COMPONENT OF THE PIPE, PIPE FITTING, PLUMBING FITTING, OR FIXTURE;

(4) DETERMINING THE PERCENT OF TOTAL WETTED SURFACE AREA OF THE PIPE, PIPE FITTING, PLUMBING FITTING, OR FIXTURE, REPRESENTED IN EACH COMPONENT;

(5) CALCULATING THE CONTRIBUTING PERCENT LEAD FOR EACH COMPONENT THAT COMES INTO CONTACT WITH WATER BY MULTIPLYING THE PERCENTAGE OF LEAD CONTENT OF THE COMPONENT BY THE PERCENT OF TOTAL WETTED SURFACE AREA REPRESENTED BY THE COMPONENT; AND

(6) CALCULATING THE SUM OF EACH CONTRIBUTING PERCENT LEAD VALUE DETERMINED FOR EACH COMPONENT UNDER ITEM (5) OF THIS SUBSECTION.

12-205.

(b) (1) The Board may adopt, as part of the State Plumbing Code, regulations to carry out the purposes of and to enforce §§ 12-605 and 12-606 of this title.

(2) The Board may adopt standards of the American National Standards Institute or any other nationally recognized organization.

**(3) THE BOARD SHALL ADOPT, AS PART OF THE STATE PLUMBING CODE, REGULATIONS TO CARRY OUT THE PURPOSES OF AND TO ENFORCE §§ 12-605.1 AND 12-605.2 OF THIS TITLE.**

12-605.

(a) (1) A person may not install a plumbing fixture or other device that does not meet the standards for approval as set out in the State Plumbing Code or any applicable local plumbing code.

**12-605.1.**

**(A) IN THE INSTALLATION OR REPAIR OF PLUMBING INTENDED TO DISPENSE WATER FOR HUMAN CONSUMPTION, A PERSON SHALL USE ONLY PIPES, PIPE FITTINGS, PLUMBING FITTINGS, OR FIXTURES THAT ARE LEAD-FREE.**

**(B) IN THE INSTALLATION OR REPAIR OF PLUMBING INTENDED TO DISPENSE WATER FOR HUMAN CONSUMPTION, A PERSON SHALL USE ONLY SOLDER OR FLUX THAT IS LEAD-FREE.**

**12-605.2.**

(A) A PERSON ENGAGED IN THE BUSINESS OF SELLING PLUMBING SUPPLIES IN THE STATE MAY NOT SELL PIPES, PIPE FITTINGS, PLUMBING FITTINGS, OR FIXTURES THAT WILL BE USED IN THE INSTALLATION OR REPAIR OF ANY PLUMBING THAT DISPENSES WATER FOR HUMAN CONSUMPTION, UNLESS THE PIPES, PIPE FITTINGS, PLUMBING FITTINGS, OR FIXTURES ARE LEAD-FREE.

(B) A PERSON ENGAGED IN THE BUSINESS OF SELLING PLUMBING SUPPLIES IN THE STATE MAY NOT SELL SOLDER OR FLUX THAT IS NOT LEAD-FREE UNLESS THE SOLDER OR FLUX BEARS A LABEL STATING THAT IT IS ILLEGAL TO USE THE SOLDER OR FLUX IN THE INSTALLATION OR REPAIR OF ANY PLUMBING THAT DISPENSES WATER FOR HUMAN CONSUMPTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2012.

Approved by the Governor, May 4, 2010.

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**Chapter 408****(House Bill 375)**

AN ACT concerning

**Garrett County – Orphans' Court Judges**

FOR the purpose of correcting certain incorrect cross-references to the Public Local Laws of Garrett County; making certain stylistic changes; and generally relating to the Orphans' Court judges for Garrett County.

BY repealing and reenacting, with amendments,  
Article – Estates and Trusts  
Section 2-108(m)  
Annotated Code of Maryland  
(2001 Replacement Volume and 2009 Supplement)

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

**Article – Estates and Trusts**

2–108.

(m) (1) Each of the judges of the Court for Garrett County shall receive an annual salary set by the **BOARD OF** County Commissioners in accordance with [Chapter 91] §§ **32.43 AND 32.44** of the Public Local Laws of Garrett County.

(2) Each judge shall be reimbursed for traveling to and from the sessions of the Court at the rate Garrett County pays for mileage. Each judge shall also receive an amount for expenses for every day's attendance on the sessions of the Court set by the **BOARD OF** County Commissioners in accordance with [Chapter 91] §§ **32.43 AND 32.44** of the Public Local Laws of Garrett County.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 409

(House Bill 378)

AN ACT concerning

### **Election Law – ~~Ballot Issue Committee – Additional~~ Campaign Finance ~~Report~~ Reports**

FOR the purpose of requiring a ballot issue committee to file a campaign finance report on or before a certain date preceding a general election; exempting a certain campaign finance entity of a candidate for election to the central committee of a political party from the requirement to file a certain affidavit or campaign finance report on certain dates; and generally relating to the filing of an additional campaign finance report by a ballot issue committee reports.

BY repealing and reenacting, with amendments,

Article – Election Law

Section 13–305 and 13–309

Annotated Code of Maryland

(2003 Volume and 2009 Supplement)

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

### **Article – Election Law**

13–305.

(a) Instead of filing a report required under § 13–309 of this subtitle, a treasurer may file an affidavit stating that the campaign finance entity has not raised or spent a cumulative amount of \$1,000 or more, exclusive of the filing fee, and regardless of the balance of the campaign account, since:

- (1) establishing the campaign finance entity; or
- (2) filing the campaign finance entity's last campaign finance report.

(b) The affidavit shall be filed on or before the date a campaign finance report is due to be filed under § 13–309 of this subtitle.

**(C) (1) THIS SUBSECTION ONLY APPLIES TO A CAMPAIGN FINANCE ENTITY OF A CANDIDATE FOR ELECTION TO THE CENTRAL COMMITTEE OF A POLITICAL PARTY THAT IS AUTHORIZED UNDER SUBSECTION (A) OF THIS SECTION TO FILE AN AFFIDAVIT INSTEAD OF FILING A CAMPAIGN FINANCE REPORT ON A DATE SPECIFIED IN § 13–309(A) OF THIS SUBTITLE.**

**(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A CAMPAIGN FINANCE ENTITY SUBJECT TO THIS SUBSECTION IS NOT REQUIRED TO FILE AN AFFIDAVIT UNDER THIS SECTION OR A CAMPAIGN FINANCE REPORT ON A DATE SPECIFIED IN § 13–309(A) OF THIS SUBTITLE.**

**(3) A CAMPAIGN FINANCE ENTITY SUBJECT TO THIS SUBSECTION SHALL FILE AN AFFIDAVIT UNDER SUBSECTION (A) OF THIS SECTION OR A CAMPAIGN FINANCE REPORT ON THE DATE SPECIFIED IN § 13–309(C) OF THIS SUBTITLE.**

13–309.

(a) Subject to other provisions of this subtitle, a campaign finance entity shall file campaign finance reports as follows:

- (1) except for a ballot issue committee, on or before the fourth Tuesday immediately preceding each primary election except a presidential primary election;
- (2) except for a ballot issue committee, on or before the second Friday immediately preceding a primary election;
- (3) FOR A BALLOT ISSUE COMMITTEE ONLY, ON OR BEFORE THE FOURTH FRIDAY IMMEDIATELY PRECEDING A GENERAL ELECTION;**

**[(3)] (4)** on or before the second Friday immediately preceding a general election; and

~~[(4)]~~ (5) on or before the third Tuesday after a general election.

(b) (1) A campaign finance entity is subject to subsection (a) of this section and this subsection only as to the election in which the entity designates that it will participate.

(2) In addition to the campaign finance reports required under subsection (a) of this section, but subject to paragraph (4) of this subsection, a campaign finance entity shall file campaign finance reports on the third Wednesday in January.

(3) (i) If subsequent to the filing of its declaration under § 13–208(c)(3) of this title, a campaign finance entity participates in an election in which it was not designated to participate, the campaign finance entity shall file all campaign reports prescribed under subsection (a) of this section for that election.

(ii) A violation of subparagraph (i) of this paragraph constitutes a failure to file by the campaign finance entity, and the responsible officer is guilty of a misdemeanor and on conviction is subject to the penalties prescribed under Part VII of this subtitle.

(4) If a campaign finance entity has neither a cash balance nor an outstanding obligation at the end of a reporting period, a campaign finance report for that period, clearly marked as “final”, shall be filed on or before the due date, and no further report is required.

(c) In addition to the campaign reports required under subsection (a) of this section, a continuing political committee shall file a campaign finance report on the third Wednesday in January of each year the committee is in existence.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 410

**(House Bill 393)**

AN ACT concerning

### **Anne Arundel County – Motorcycle Dealers – Sunday Operations**

FOR the purpose of authorizing in Anne Arundel County a motorcycle dealer to sell, barter, deliver, give away, show, or offer for sale a motorcycle or a certificate of

title for a motorcycle on Sunday; and generally relating to motorcycle dealers in Anne Arundel County.

BY repealing and reenacting, with amendments,  
Article – Business Regulation  
Section 18–101  
Annotated Code of Maryland  
(2004 Replacement Volume and 2009 Supplement)

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

**Article – Business Regulation**

18–101.

(a) (1) This section does not apply to the laws that relate to the sale of alcoholic beverages.

(2) This section does not apply in Wicomico County.

(b) Subject to this section and § 3–704 of the Labor and Employment Article, a retail or wholesale establishment may do business on Sunday.

(c) Notwithstanding an agreement to the contrary between a merchant and landlord:

(1) the landlord may not directly or indirectly require the merchant to open the merchant's place of business on Sunday; and

(2) a landlord may not directly or indirectly cancel or refuse to renew the merchant's lease because the merchant refuses to open the merchant's place of business on Sunday.

(d) Except in Howard, Montgomery, and Prince George's counties, and except as provided in subsection (g) of this section, a new or used car dealer may not sell, barter, deliver, give away, show, or offer for sale a motor vehicle or certificate of title for a motor vehicle on Sunday.

(e) In Anne Arundel County, a dealer may sell, barter, deliver, give away, show, or offer for sale on Sunday a new or used camping trailer, mobile home, or travel trailer, as those terms are defined in Title 11 of the Transportation Article.

(f) A new or used car dealer who violates subsection (d) of this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding \$10,000.

(g) In ANNE ARUNDEL COUNTY AND Worcester County, a dealer may sell, barter, deliver, give away, show, or offer for sale a motorcycle, as defined in § 11–136 of the Transportation Article, or certificate of title for a motorcycle on Sunday.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 411

### (House Bill 399)

AN ACT concerning

#### **Washington County – Alcoholic Beverages – Beer Tasting License**

FOR the purpose of establishing a beer tasting license in Washington County; authorizing the issuance of the license only to certain persons; specifying that the license allows the consumption of beer for tasting purposes only; requiring the Board of License Commissioners to regulate certain conditions under which a tasting may be held; specifying a license fee; authorizing the Board to adopt certain regulations; making a certain technical change; and generally relating to alcoholic beverages in Washington County.

BY adding to

Article 2B – Alcoholic Beverages

Section 8–902

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 9–102(a)

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

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

#### **Article 2B – Alcoholic Beverages**

**8–902.**

**(A) THIS SECTION APPLIES ONLY IN WASHINGTON COUNTY.**

**(B) IN THIS SECTION, "BOARD" MEANS THE BOARD OF LICENSE COMMISSIONERS.**

**(C) THE BOARD MAY ISSUE A BEER TASTING (BT) ALCOHOLIC BEVERAGES LICENSE.**

**(D) THE LICENSE MAY BE ISSUED ONLY TO A HOLDER OF A CLASS A OR CLASS B BEER AND WINE (BW) LICENSE OR A CLASS A OR CLASS B BEER, WINE AND LIQUOR (BWL) LICENSE IN THE COUNTY.**

**(E) (1) THE BT LICENSE PERMITS THE CONSUMPTION OF BEER FOR TASTING PURPOSES ONLY.**

**(2) TO HOLD A BEER TASTING, A HOLDER OF THE BT LICENSE SHALL PROVIDE BEER TO CONSUMERS AT NO CHARGE.**

**(F) THE BOARD SHALL REGULATE:**

**(1) THE QUANTITY OF BEER TO BE SERVED TO EACH PERSON;**

**(2) THE NUMBER OF BOTTLES OR OTHER CONTAINERS OF BEER FROM WHICH THIS QUANTITY IS BEING SERVED; AND**

**(3) THE SIZE OF THE BOTTLES OR OTHER CONTAINERS.**

**(G) (1) THE ANNUAL BT LICENSE FEE IS \$100.**

**(2) THE FEE IS IN ADDITION TO THE BW LICENSE FEE OR THE BWL LICENSE FEE.**

**(H) THE BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.**

9-102.

(a) No more than one license provided by this article, except by way of renewal or as otherwise provided in this section, shall be issued in any county or Baltimore City, to any person, or for the use of any partnership, corporation, unincorporated association, or limited liability company, in Baltimore City or any county of the State, and no more than one license shall be issued for the same premises except as provided in §§ 2-201 through 2-208, 2-301, and 6-701 of this article, and nothing herein shall be construed to apply to § 6-201(r)(4), (15), and (17), §

7–101(b) and (c), § 8–202(g)(2)(ii) and (iii), § 8–217(e), § 8–508, **§ 8–902**, or § 12–202 of this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 412

### (House Bill 420)

AN ACT concerning

#### Secretary of Agriculture – Mosquito Control – Enforcement Authority

FOR the purpose of authorizing the Secretary of Agriculture to issue and serve a mosquito abatement order on certain persons under certain circumstances; ~~authorizing the Secretary to enter on and inspect private property for certain purposes;~~ authorizing the Secretary to bring action for injunctive relief under certain circumstances; establishing a certain ~~penalty~~ *penalties* for any person who violates a mosquito abatement order issued by the Secretary; and generally relating to mosquito abatement by the Department of Agriculture.

BY adding to

Article – Agriculture

Section 5–406 through ~~5–409~~ 5–408

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

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

#### Article – Agriculture

##### **5–406.**

**(A) IF THE SECRETARY, ~~AFTER CONSULTING~~ IN COOPERATION WITH THE LOCAL HEALTH AUTHORITY, FINDS THAT A PERSON IS CAUSING OR ALLOWING MOSQUITOES TO BREED OR DEVELOP ON ANY PROPERTY IN A MANNER THAT MAY POSE A THREAT TO PUBLIC HEALTH, THE SECRETARY MAY ORDER THAT THE PERSON ABATE THE MOSQUITO HABITAT IN A MANNER AND AT A TIME SPECIFIED IN THE ORDER.**

(B) AFTER ALL REASONABLE ATTEMPTS OF ABATEMENT HAVE FAILED, AN ORDER ISSUED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION SHALL BE SERVED:

(1) ON THE PERSON WHO IS CAUSING OR ALLOWING MOSQUITOES TO BREED OR DEVELOP; OR

(2) IF THE PERSON WHO IS CAUSING OR ALLOWING THE MOSQUITOES TO BREED OR DEVELOP CANNOT BE FOUND, ON THE OWNER OR OCCUPANT OF THE PROPERTY WHERE THE MOSQUITOES EXIST.

~~5-407.~~

~~AFTER MAKING A REASONABLE ATTEMPT TO LOCATE THE OWNER OR TENANT ON THE PREMISES FOR PERMISSION TO ENTER AND GIVING THE OWNER OR TENANT A REASONABLE AMOUNT OF TIME TO RESPOND, THE SECRETARY MAY ENTER ON AND INSPECT, AT ANY REASONABLE HOUR, ANY PRIVATE PROPERTY, EXCLUDING A DWELLING, TO DETERMINE WHETHER MOSQUITOES ARE BREEDING OR DEVELOPING.~~

~~5-408.~~ 5-407.

(A) THE SECRETARY MAY BRING AN ACTION FOR AN INJUNCTION AGAINST ANY PERSON VIOLATING ANY ORDER ISSUED BY THE SECRETARY UNDER § 5-406 OF THIS SUBTITLE.

(B) IN ANY ACTION FOR AN INJUNCTION BROUGHT UNDER THIS SECTION, ANY FINDING OF THE SECRETARY AFTER A HEARING SHALL BE PRIMA FACIE EVIDENCE OF EACH FACT FOUND.

(C) ON A SHOWING BY THE SECRETARY THAT ANY PERSON IS VIOLATING OR IS ABOUT TO VIOLATE ANY ORDER ISSUED BY THE SECRETARY, AN INJUNCTION SHALL BE GRANTED WITHOUT THE NECESSITY OF SHOWING A LACK OF ADEQUATE REMEDY AT LAW.

(D) AN INJUNCTION INSTITUTED UNDER THIS SECTION SHALL BE ISSUED WITHOUT BOND.

~~5-409.~~ 5-408.

A PERSON WHO FAILS TO COMPLY WITH THE REQUIREMENTS OF AN ORDER SERVED UNDER § 5-406 OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

***(1) FOR A FIRST OFFENSE, A FINE NOT EXCEEDING \$1,000; AND***

***(2) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE NOT EXCEEDING \$5,000.***

SECTION 2. AND BE IT FURTHER ENACTED, That this Act does not increase the duties or responsibilities of local health authorities to engage in mosquito control activity.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 413

**(House Bill 421)**

AN ACT concerning

**Department of Agriculture – Advertising Agricultural Products as Locally Grown – Regulatory Authority**

FOR the purpose of authorizing the Secretary of Agriculture to adopt standards under certain conditions to regulate the advertising of certain agricultural products; requiring the Secretary to convene and consult with a certain advisory group to determine the definition of a certain term before adopting certain standards; prohibiting a person from *knowingly* advertising or identifying certain agricultural products in violation of certain standards; and generally relating to the advertising of agricultural products as locally grown.

BY adding to

Article – Agriculture

Section 10–1701 and 10–1702 to be under the new subtitle “Subtitle 17.

Advertising or Identifying Agricultural Products as Locally Grown”

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

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

### Article – Agriculture

SUBTITLE 17. ADVERTISING OR IDENTIFYING AGRICULTURAL PRODUCTS AS  
LOCALLY GROWN.

10-1701.

~~THE~~ (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE SECRETARY MAY ADOPT STANDARDS TO REGULATE THE USE OF THE TERMS “LOCALLY GROWN” AND “LOCAL” TO ADVERTISE OR IDENTIFY AN AGRICULTURAL PRODUCT.

(B) BEFORE ADOPTING STANDARDS UNDER THIS SECTION, THE SECRETARY SHALL CONVENE AND CONSULT WITH AN ADVISORY GROUP OF INTERESTED STAKEHOLDERS, ~~INCLUDING~~ TO DETERMINE THE DEFINITION OF THE TERM “LOCALLY GROWN”.

(C) THE INTERESTED STAKEHOLDERS CONVENE UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE REPRESENTATIVES FROM ORGANIZATIONS THAT REPRESENT:

- (1) FARMERS;
- (2) FOOD DISTRIBUTORS;
- (3) RETAIL STORES;
- (4) FOOD SERVICE INDUSTRIES; AND
- (5) RESTAURANTS.

10-1702.

A PERSON MAY NOT KNOWINGLY ADVERTISE OR IDENTIFY ANY AGRICULTURAL PRODUCT IN VIOLATION OF THE STANDARDS ADOPTED BY THE SECRETARY UNDER § 10-1701 OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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Chapter 414

(House Bill 423)

AN ACT concerning

**Life and Health Insurance Guaranty Corporation – Maximum Liability**

FOR the purpose of altering, for ~~certain life insurance death benefits, certain health insurance benefits, and~~ the present value of certain annuity benefits, the maximum amounts of certain contractual obligations of certain impaired insurers or certain insolvent insurers for which the Life and Health Insurance Guaranty Corporation may become liable under certain circumstances; and generally relating to the liability of the Life and Health Insurance Guaranty Corporation for contractual obligations of impaired insurers and insolvent insurers.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 9–407(j)

Annotated Code of Maryland

(2003 Replacement Volume and 2009 Supplement)

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

**Article – Insurance**

9–407.

(j) (1) Subject to paragraphs (2) and (3) of this subsection and unless the contractual obligations of the impaired insurer or insolvent insurer are reduced under subsection (e) of this section, the contractual obligations of the impaired insurer or insolvent insurer for which the Corporation is or may become liable shall be as great as, but no greater than, the contractual obligations that the impaired insurer or insolvent insurer would have had in the absence of the impairment or insolvency.

(2) The Corporation is not liable for health care received after the date of the impairment or insolvency unless the health care was in progress on the date of the impairment or insolvency or unless other health care coverage is not available from another insurer or nonprofit health service plan.

(3) Benefits for which the Corporation may become liable may not exceed the lesser of:

(i) the contractual obligations for which the insurer is or would have been liable if it were not an impaired insurer or insolvent insurer; or

(ii) with respect to any one life, regardless of the number of policies or contracts:

1. ~~[\$300,000]~~ **\$500,000** in life insurance death benefits, but not more than \$100,000 in net cash surrender and net cash withdrawal values for life insurance;
2. ~~[\$300,000]~~ **\$500,000** in health insurance benefits, including net cash surrender and net cash withdrawal values; and
3. **[\$100,000]** **\$250,000** in the present value of annuity benefits, including net cash surrender and net cash withdrawal values.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 415

(House Bill 476)

AN ACT concerning

### Frederick County – Property Tax Setoff

FOR the purpose of requiring the governing body of Frederick County to grant a property tax setoff to a municipal corporation ~~in an amount no less than the amount granted for a certain tax year and in an amount that increases by a certain percentage under certain circumstances~~ in certain minimum amounts for certain taxable years; making this Act an emergency measure; and generally relating to a property tax setoff in Frederick County.

BY repealing and reenacting, with amendments,  
 Article – Tax – Property  
 Section 6–305  
 Annotated Code of Maryland  
 (2007 Replacement Volume and 2009 Supplement)

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

#### Article – Tax – Property

6–305.

- (a) In this section, “tax setoff” means:

(1) the difference between the general county property tax rate and the property tax rate that is set for assessments of property in a municipal corporation; or

(2) a payment to a municipal corporation to aid the municipal corporation in funding services or programs that are similar to county services or programs.

(b) This section applies only in:

- (1) Allegany County;
- (2) Anne Arundel County;
- (3) Baltimore County;
- (4) Frederick County;
- (5) Garrett County;
- (6) Harford County;
- (7) Howard County;
- (8) Montgomery County; and
- (9) Prince George's County.

(c) The governing body of the county shall meet and discuss with the governing body of any municipal corporation in the county the county property tax rate to be set for assessments of property in the municipal corporation as provided in this section. After the meeting if it can be demonstrated that a municipal corporation performs services or programs instead of similar county services or programs, the governing body of the county shall grant a tax setoff to the municipal corporation.

(d) **[In] EXCEPT AS PROVIDED IN SUBSECTION (K) OF THIS SECTION, IN** determining the county property tax rate to be set for assessments of property in a municipal corporation, the governing body of the county shall consider:

(1) the services and programs that are performed by the municipal corporation instead of similar county services and programs; and

(2) the extent that the similar services and programs are funded by property tax revenues.

(e) The county property tax rate for assessments of property located in a municipal corporation is not required to be:

(1) the same as the rate for property located in other municipal corporations in the county; or

(2) the same as the rate set in a prior year.

(f) (1) At least 180 days before the date that the annual county budget is required to be approved, any municipal corporation in the county that desires that a tax setoff be provided shall submit to the county a proposal that states the desired level of property tax setoff for the next fiscal year.

(2) (i) A request submitted under paragraph (1) of this subsection shall be accompanied by:

1. a description of the scope and nature of the services or programs provided by the municipal corporation instead of similar services or programs provided by the county; and

2. financial records and other documentation regarding municipal revenues and expenditures.

(ii) The materials submitted under subparagraph (i) of this paragraph shall provide sufficient detail for an assessment of the similar services or programs.

(3) After receiving a proposal from a municipal corporation requesting a tax setoff under this subsection, the governing body of the county shall promptly submit to the municipal corporation financial records and other documentation regarding county revenues and expenditures.

(g) (1) At least 90 days before the date that the annual county budget is required to be approved, the county and any municipal corporation submitting a tax setoff request under subsection (f) of this section shall designate appropriate policy and fiscal officers or representatives to meet and discuss the nature of the tax setoff request, relevant financial information of the county and municipal corporation, and the scope and nature of services provided by both entities.

(2) A meeting held under paragraph (1) of this subsection may be held by the county representatives jointly with representatives from more than one municipal corporation.

(3) (i) The county officers or representatives may request from the municipal corporation officers or representatives additional information that may reasonably be needed to assess the tax setoff.

(ii) The municipal corporation officers or representatives shall provide the additional information expeditiously.

(h) (1) At or before the time the proposed county budget is released to the public, the county commissioners, the county executive of a charter county, or the county council of a charter county without a county executive shall submit a statement of intent to each municipal corporation that has requested a tax setoff.

(2) The statement of intent shall contain:

(i) an explanation of the level of the proposed tax setoff;

(ii) a description of the information or process used to determine the level of the proposed tax setoff; and

(iii) an indication that, before the budget is enacted, appropriate officials or representatives of the municipal corporation are entitled to appear before the county governing body to discuss or contest the level of the proposed tax setoff.

(i) Representatives of each municipal corporation in the county requesting a tax setoff shall be afforded an opportunity to testify before the county governing body during normally scheduled hearings on the county's proposed budget.

(j) Notwithstanding the provisions of subsections (d), (f), and (g) of this section:

(1) a county and one or more municipal corporations may enter into an agreement setting different terms or timing for negotiations, calculations, or approval of a tax setoff; and

(2) a county may grant a tax setoff to a municipal corporation that does not make a request in the fashion described in this section.

**(K) IN FREDERICK COUNTY, FOR THE TAXABLE YEAR THAT BEGINS JULY 1, 2011, ~~AND EACH TAXABLE YEAR THEREAFTER,~~ THE GOVERNING BODY OF FREDERICK COUNTY SHALL GRANT A TAX SETOFF TO A MUNICIPAL CORPORATION IN AN AMOUNT THAT:**

**(1) IS NO LESS THAN THE TAX SETOFF GRANTED TO THAT MUNICIPAL CORPORATION FOR THE PRECEDING TAXABLE YEAR; AND**

**(2) INCREASES BY THE SAME PERCENTAGE BY WHICH THE COUNTY PROPERTY TAX RATE EXCEEDS THE CONSTANT YIELD TAX RATE.**

SECTION 2. AND BE IT FURTHER ENACTED, That for the taxable year that begins July 1, 2010, the governing body of Frederick County shall grant a tax setoff to

a municipal corporation in an amount that is no less than the amount granted to that municipal corporation for the taxable year that began July 1, 2008, and increases by the same percentage by which the county property tax rate exceeds the constant yield tax rate.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, May 4, 2010.**

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## Chapter 416

(House Bill 487)

AN ACT concerning

**Environment – State Board of Waterworks and Waste Systems Operators –  
Sunset Extension and Revisions**

FOR the purpose of continuing the State Board of Waterworks and Waste Systems Operators in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board; altering the composition of the Board; clarifying that the Department of the Environment is responsible for the enforcement of certain provisions; 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; repealing obsolete language; and generally relating to the State Board of Waterworks and Waste Systems Operators.

BY repealing and reenacting, with amendments,

Article – Environment

Section 12–101(c)(2), 12–202(a)(2), 12–308, 12–402, 12–501, and 12–602

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

BY repealing

Article – Environment

Section 12–305(c)

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,  
Article – State Government  
Section 8–403(a)  
Annotated Code of Maryland  
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 8–403(b)(67)  
Annotated Code of Maryland  
(2009 Replacement Volume)

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

**Article – Environment**

12–101.

(c) (2) “Certificate” includes:

(i) A certificate; **AND**

(ii) A temporary certificate, as limited by § 12–305 of this title[;

and

(iii) A limited certificate, as limited by § 12–305 of this title].

12–202.

(a) (2) With the advice and consent of the Senate, the Governor shall appoint 8 members who represent one or more of the following:

(i) Municipal government;

(ii) County government;

(iii) A sanitary or a metropolitan commission;

(iv) Waterworks supervision;

(v) Wastewater works or industrial wastewater works supervision;

(vi) Agriculture;

(vii) Industrial wastewater works superintendents; and

(viii) The [Department of Natural Resources] MARYLAND ENVIRONMENTAL SERVICE.

12-305.

[(c) The Board may issue a limited certification to any uncertified operator or industrial operator who:

(1) On or before July 1, 1982, submits an application to the Board on the form that the Board requires;

(2) Is employed in a waterworks, wastewater works, or industrial wastewater works; and

(3) Complies with any applicable rule or regulation adopted under this title for this purpose.]

12-308.

(a) Subject to the hearing provisions of § 12-309 of this subtitle, the Board may deny certification[, limited certification,] or temporary certification to any applicant, if the applicant:

(1) Fraudulently or deceptively obtains or attempts to obtain a certificate[,] OR temporary certificate[, or limited certificate] for the applicant or for another; or

(2) Fraudulently or deceptively uses a certificate[,] OR temporary certificate[, or limited certificate].

(b) Subject to the hearing provisions of § 12-309 of this subtitle, the Board may reprimand any certificate holder, or suspend or revoke a certification[, limited certification,] or temporary certification, if:

(1) The certificate holder:

(i) Fraudulently or deceptively obtains or attempts to obtain a certificate[,] OR temporary certificate[, or limited certificate] for the certificate holder or another; or

(ii) Fraudulently or deceptively uses a certificate[,] OR temporary certificate[, or limited certificate]; or

(2) The Board has any other reasonable cause for the action.

12–402.

(A) Each waterworks, wastewater works, and industrial wastewater works shall be under the supervision of a superintendent who is certified in the appropriate classification.

(B) **THE DEPARTMENT SHALL ENFORCE THIS SECTION.**

12–501.

(a) A person or municipal or private corporation may not operate a waterworks, wastewater works, or industrial wastewater works unless the facility is under the responsible charge of a certified superintendent.

(b) After July 1, 1982, a person or municipal or private corporation may not operate a waterworks or wastewater works unless all operators in the waterworks or wastewater works are certified operators.

(c) After July 1, 1982, a person or municipal or private corporation may not operate an industrial wastewater works unless all industrial operators in the industrial wastewater works are certified industrial operators.

(D) **THE DEPARTMENT SHALL ENFORCE THIS SECTION.**

12–602.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, and except for the rules and regulations adopted by the Secretary, this title shall terminate and be of no effect 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:

(67) Waterworks and Waste Systems Operators, State Board of (§ 12-201 of the Environment Article: July 1, [2010] **2020**); and

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2011, the State Board of Waterworks and Waste Systems Operators, 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 ~~the status of nonstatutory recommendations contained in the Sunset Review: Evaluation of the State Board of Waterworks and Waste Systems Operators conducted by the Department of Legislative Services, specifically:~~

~~(1) the progress made by the Department of the Environment in developing a database to be used for tracking waste systems facilities;~~

~~(2) the capability of databases of the Department of the Environment and the Board to track the employment of superintendents at facilities;~~

~~(3) recommendations regarding whether to amend the statute to exempt facilities of a certain size or type from the requirement to employ a certified superintendent;~~

~~(4) the Board's promotion of circuit rider services for smaller facilities;~~

~~(5) the effect of using circuit riders at previously noncompliant facilities and whether compliant facilities are changing from full-time operators to circuit riders;~~

~~(6) the adoption of regulations establishing the Board's circuit rider experience crediting policy;~~

~~(7) labor market conditions affecting facility compliance with the certified operator requirement;~~

~~(8) the status of upgrading the Board's administrative database;~~

~~(9) the status of the upgrade of the Board's website and compatibility with the Board's administrative database and the Department of the Environment's databases;~~

~~(10) the Board's website resources for operators, prospective operators, circuit riders, facility owners, and the public;~~

~~(11) the use of the Department of the Environment's penalty authority and any recommended changes to that authority;~~

~~(12) expanding preexamination training opportunities for operators;~~

- ~~(13) the status of implementing computer-based examinations; and~~
- ~~(14) the Board's ability to generate sufficient fee revenue for the General Fund to cover Board expenditures.~~
- (1) the options for development of a database to be used for tracking waste systems facilities and the employment of superintendents at facilities;
- (2) whether to recommend statutory changes to exempt facilities of a certain size or type from the requirement to employ a certified superintendent;
- (3) the use of circuit riders by facilities in Maryland and system compliance for facilities with circuit riders;
- (4) the adoption of regulations establishing the Board's circuit rider experience crediting policy;
- (5) workforce conditions, including retirement, turnover, and salary, that affect future facility compliance with the certified operator requirement;
- (6) the options for upgrading the Board's administrative database and website, and the compatibility of the Board's administrative database with the Department of the Environment's databases;
- (7) the use of the Department of the Environment's penalty authority and any recommended changes to that authority;
- (8) preexamination training opportunities for operators;
- (9) the status of implementing computer-based examinations; and
- (10) the Board's ability to generate sufficient fee revenue for the General Fund to cover the Board's expenses.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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**Chapter 417**

**(House Bill 517)**

AN ACT concerning

**Criminal Law – Narcotic Drugs – Enhanced Penalties**

FOR the purpose of adding conspiracy to distribute certain narcotic drugs and the commission of a certain crime in another state as predicates for a certain enhanced penalty for certain offenses relating to narcotic drugs; and generally relating to narcotic drugs and enhanced penalties.

BY repealing and reenacting, with amendments,  
Article – Criminal Law  
Section 5–608  
Annotated Code of Maryland  
(2002 Volume and 2009 Supplement)

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

**Article – Criminal Law**

5–608.

(a) Except as otherwise provided in this section, a person who violates a provision of §§ 5–602 through 5–606 of this subtitle with respect to a Schedule I or Schedule II narcotic drug is guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years or a fine not exceeding \$25,000 or both.

(b) (1) A person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section shall be sentenced to imprisonment for not less than 10 years and is subject to a fine not exceeding \$100,000 if the person previously has been convicted once:

(i) under subsection (a) of this section or § 5–609 of this subtitle;

(ii) of conspiracy to commit a crime included in subsection (a) of this section or § 5–609 of this subtitle; or

(iii) of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5–609 of this subtitle if committed in this State.

(2) The court may not suspend the mandatory minimum sentence to less than 10 years.

(3) Except as provided in § 4–305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

(4) A person convicted under subsection (a) of this section is not prohibited from participating in a drug treatment program under § 8–507 of the Health – General Article because of the length of the sentence.

(c) (1) A person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section shall be sentenced to imprisonment for not less than 25 years and is subject to a fine not exceeding \$100,000 if the person previously:

(i) has served at least one term of confinement of at least 180 days in a correctional institution as a result of a conviction [under subsection (a) of this section, § 5–609 of this subtitle, or § 5–614 of this subtitle; and]:

**1. UNDER SUBSECTION (A) OF THIS SECTION OR § 5–609 OR § 5–614 OF THIS SUBTITLE;**

**2. OF CONSPIRACY TO COMMIT A CRIME INCLUDED IN SUBSECTION (A) OF THIS SECTION OR § 5–609 OF THIS SUBTITLE; OR**

**3. OF A CRIME UNDER THE LAWS OF ANOTHER STATE OR THE UNITED STATES THAT WOULD BE A CRIME INCLUDED IN SUBSECTION (A) OF THIS SECTION OR § 5–609 OF THIS SUBTITLE IF COMMITTED IN THIS STATE; AND**

(ii) has been convicted twice, if the convictions arise from separate occasions:

1. under subsection (a) of this section or § 5–609 of this subtitle;

2. of conspiracy to commit a crime included in subsection (a) of this section or § 5–609 of this subtitle;

3. of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5–609 of this subtitle if committed in this State; or

4. of any combination of these crimes.

(2) The court may not suspend any part of the mandatory minimum sentence of 25 years.

(3) Except as provided in § 4–305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

(4) A separate occasion is one in which the second or succeeding crime is committed after there has been a charging document filed for the preceding crime.

(d) (1) A person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section shall be sentenced to imprisonment for not less than 40 years and is subject to a fine not exceeding \$100,000 if the person previously has served three or more separate terms of confinement as a result of three or more separate convictions:

(i) under subsection (a) of this section or § 5-609 of this subtitle;

(ii) of conspiracy to commit a crime included in subsection (a) of this section or § 5-609 of this subtitle;

(iii) of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5-609 of this subtitle if committed in this State; or

(iv) of any combination of these crimes.

(2) The court may not suspend any part of the mandatory minimum sentence of 40 years.

(3) Except as provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## **Chapter 418**

### **(House Bill 527)**

AN ACT concerning

#### **Natural Resources – Abandoned Vessel – Definition**

FOR the purpose of altering the period after which a vessel left at certain locations without certain consent is considered abandoned; and generally relating to abandoned vessels.

BY repealing and reenacting, with amendments,

Article – Natural Resources  
 Section 8–721(a)  
 Annotated Code of Maryland  
 (2007 Replacement Volume and 2009 Supplement)

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

**Article – Natural Resources**

8–721.

(a) In this section, “abandoned vessel” means any vessel that:

(1) Is left illegally or has remained without permission for more than 30 days on public property, including public marinas, docks, or boatyards;

(2) Has remained at the following locations for more than ~~90~~ **30** days without the consent of the owner or person in control of the property:

(i) A private marina or property operated by a private marina;

**OR**

(ii) A private boatyard or property operated by a private boatyard;

**(3) HAS REMAINED AT THE FOLLOWING LOCATIONS FOR MORE THAN 30 DAYS WITHOUT THE CONSENT OF THE OWNER OR PERSON IN CONTROL OF THE PROPERTY:**

~~(iii)~~ **(I)** A private dock; or

~~(iv)~~ **(II)** At or near waters’ edge on private property;

~~(3)~~ **(4)** Has remained on private property other than the private property described in ~~item (2)~~ **ITEMS (2) AND (3)** of this subsection for more than 180 days without the consent of the owner or person in control of the property; or

~~(4)~~ **(5)** Has been found adrift or unattended in or upon the waters of the State, and is found in a condition of disrepair as to constitute a hazard or obstruction to the use of the waters of the State or presents a potential health or environmental hazard.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 419

(House Bill 551)

AN ACT concerning

### Wicomico County – Alcoholic Beverages – ~~Beer Tasting Workers in Licensed Establishments~~ Act of 2010

FOR the purpose of ~~creating in Wicomico County a beer tasting (BT) license and a beer/wine tasting (BWT) license; specifying to whom the licenses may be issued; providing for license fees, applications, renewals, and issuance procedures; setting certain maximum limits on the amounts of individual servings and open containers and bottles of beer and wine at certain events; specifying certain restrictions and notice requirements on certain beer or wine events; authorizing the Board of License Commissioners to adopt certain regulations; authorizing a person of a certain age who has a valid work permit to be employed for certain purposes at premises that are licensed to sell alcoholic beverages in Wicomico County; prohibiting a person in Wicomico County who is under the legal drinking age for the consumption of alcohol from being on a certain premises; authorizing the Board of License Commissioners to issue a beer tasting license and a beer/wine tasting license; providing for the fees, application forms, renewal, and issuance procedures for the licenses; limiting the amount of wine and beer that may be served at events for which a license is issued; altering the number of days during which certain events may be held; requiring a license holder to provide certain notice to the Board of an event; placing certain restrictions on the length of events; providing for the use and disposal of opened bottles and containers; authorizing the Board to adopt certain regulations; altering the location for which a pub-brewery license or a micro-brewery license may be issued; allowing an individual of a certain age to be employed under certain conditions at a licensed premises for certain purposes; repealing a certain restriction applicable to the holder of a microbrewery license regarding the sale of beer for off-sale premises consumption; clarifying that the Comptroller is the issuer of a certain license; defining a certain term; making certain stylistic changes; and generally relating to alcoholic beverages in Wicomico County.~~

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 6-101(x), 6-401(x)(6), 8-412, and 12-104(e)(5)

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,

## Article 2B – Alcoholic Beverages

Section ~~6-101(a)(1) and (x)(1)~~, 6-401(a)(1) and (x)(1), and ~~12-302(a) and (5)~~

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

~~BY repealing and reenacting, with amendments,~~

~~Article 2B – Alcoholic Beverages~~

~~Section 6-101(x)(5)(i), 6-401(x)(6), and 8-412~~

~~Annotated Code of Maryland~~

~~(2005 Replacement Volume and 2009 Supplement)~~

BY adding to

Article 2B – Alcoholic Beverages

Section 12-302(b)(13)

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

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

**Article 2B – Alcoholic Beverages**

6-101.

~~(a) (1) A Class A beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. The license authorizes the holder to keep for sale and to sell all alcoholic beverages at retail, in any quantity, at the place described in the license. The licensee shall deliver the alcoholic beverages in a sealed package or container and the package or container may not be opened nor its contents consumed on the premises where sold.~~

(x) (1) This subsection applies only in Wicomico County.

(2) The maximum number of licenses is three.

(3) Any license issued under the provisions of this section shall be issued only to existing establishments that already have a Class B beer, wine and liquor (restaurant) license and have been continually operating as a restaurant in the county for 3 months prior to the application for this license.

(4) Any license issued under the provisions of this section shall apply only to the area described in the application and that area may not exceed 20 percent of the area normally used in the operation of the restaurant business. This area must be contiguous to and adjoin the restaurant establishment.

(5) (i) [1.] The annual license fee is ~~[\$2,200]~~.

~~2. During calendar year 1997, the annual license fee is \$3,300.~~

~~3. During calendar year 1998 and thereafter, the annual license fee is \$4,400.~~ **\$4,400.**

*(ii) This fee shall be paid in addition to the fee paid for the Class B (restaurant) license.*

*(6) All alcoholic beverages other than beer and light wine shall be purchased from the Liquor Control Board for Wicomico County and the licensee shall be charged not more than 15 percent above the wholesale operating cost to the dispensary.*

6-401.

(a) (1) A Class D beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. It authorizes the holder to keep for sale and sell all alcoholic beverages at retail at the place described in it, for consumption on the premises or elsewhere. A license may not be issued for any drugstore.

(x) (1) This subsection applies only in Wicomico County.

*(5) Alcoholic beverages sold under the provisions of this section shall be consumed on the premises only.*

(6) A person may not be on the premises who is under the legal DRINKING age [for the consumption of beer [beer and light wine] ALCOHOL in ~~the~~ **THE** State.

8-412.

**(A) IN THIS SECTION, "LICENSE" MEANS A BEER TASTING (BT) LICENSE, A WINE TASTING (WT) LICENSE, OR A BEER/WINE TASTING (BWT) LICENSE.**

~~(B)~~ **(B)** This section applies only in Wicomico County.

~~(C)~~ **(C)** (1) The Board of License Commissioners may issue ~~fa~~:

**(I) ~~A BEER~~ BEER TASTING (BT) LICENSE FOR BEER TASTING AND SAMPLING;**

**(II) ~~A wine~~ WINE tasting (WT) license for wine tasting and sampling; AND**

(III) ~~A BEER/WINE~~ BEER/WINE TASTING (BWT) LICENSE FOR BEER OR WINE TASTING AND SAMPLING.

(2) A ~~BT, WT, OR BWT~~ license may be issued only to a holder of a Class A beer and wine (off-sale) license ~~OR TO A HOLDER OF A CLASS A BEER, WINE AND LIQUOR (OFF-SALE) LICENSE.~~

~~(D)~~ (D) The annual [WT] ~~license~~ fee is [\$150]:

~~(I)~~ (1) FOR A BT LICENSE, \$150;

~~(II)~~ (2) FOR A WT LICENSE, \$150; AND

~~(III)~~ (3) FOR A BWT LICENSE, \$250.

~~(d)~~ (E) (1) An application for a ~~BT, WT, OR BWT license~~ a license shall be made on a form that the Board of License Commissioners provides.

(2) A renewal of ~~the BT, WT, OR BWT license~~ the license may be made at the time the Class A beer and wine (off-sale) license ~~OR~~ THE CLASS A BEER, WINE AND LIQUOR (OFF-SALE) LICENSE is renewed.

(3) The Board of License Commissioners may grant a ~~BT, WT, OR BWT~~ license without a hearing.

(4) If application for a ~~BT, WT, OR BWT license~~ a license is denied, the applicant may request a public hearing before the Board of License Commissioners.

~~(e)~~ (F) (1) [A WT license holder may not serve to any person for sampling or tasting purposes more than 1 ounce from each brand] ~~FOR SAMPLING OR TASTING PURPOSES, A PERSON MAY NOT BE SERVED MORE THAN:~~

~~(I) 3 OUNCES FROM EACH BRAND OF BEER; OR~~

~~(II) 1 OUNCE FROM EACH BRAND OF WINE.~~

~~(2) (I) A MAXIMUM OF SIX CONTAINERS OF BEER MAY BE OPEN AT ANY ONE TIME AT A BEER SAMPLING OR TASTING EVENT.~~

~~(II) A maximum of six bottles OF WINE may be open at any one time at a wine sampling or tasting event~~ AN INDIVIDUAL MAY BE SERVED, FOR SAMPLING OR TASTING PURPOSES, NOT MORE THAN:

(I) 1 OUNCE OF WINE FROM EACH BRAND; OR

**(II) 3 OUNCES OF BEER FROM EACH BRAND.**

**(2) A MAXIMUM OF:**

**(I) SIX BOTTLES OF WINE MAY BE OPEN AT ANY ONE TIME AT A WINE OR BEER AND WINE SAMPLING OR TASTING EVENT; OR**

**(II) SIX CONTAINERS OF BEER MAY BE OPEN AT ANY ONE TIME AT A BEER OR BEER AND WINE SAMPLING OR TASTING EVENT.**

(3) The total number of days during which BEER, WINE, OR BEER OR AND wine sampling or tasting events are held may not exceed ~~15~~ **20** in any period for which a ~~BT, WT, OR BWT~~ license is in effect.

(4) ~~A BT, WT, OR BWT license~~ A license holder shall notify the Board of License Commissioners in writing at least 5 days before a BEER, WINE, OR BEER OR AND wine sampling or tasting event.

(5) Once opened, each ~~CONTAINER OR~~ bottle OR CONTAINER used for a BEER, WINE, OR BEER OR AND wine sampling or tasting event shall be marked that it is to be used for that purpose only.

(6) The contents of each ~~CONTAINER OR~~ bottle OR CONTAINER may not be mixed with any other ~~CONTAINER OR~~ bottle OR CONTAINER, and all ~~CONTAINERS AND~~ bottles AND CONTAINERS shall be destroyed once they are empty.

~~(F)~~ **(G)** (1) A ~~BT, WT, OR BWT~~ license is for on-premises consumption only.

(2) [Wine] ~~BEER OR WINE~~ BEER, WINE, OR BEER AND WINE sampling or tasting may not be conducted from a drive-through window.

~~(G)~~ **(H)** THE BOARD OF LICENSE COMMISSIONERS MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

12-104.

(e) (5) (i) This paragraph applies only in Wicomico County.

(ii) Subject to subparagraphs (iii) and (iv) of this paragraph, [the Board of License Commissioners] THE COMPTROLLER may issue one Class 6 pub-brewery license or one Class 7 micro-brewery license, but not both, to a person that holds not more than three Class B beer, wine and liquor licenses.

*(iii) ~~At ONE~~ Class 6 pub–brewery license or ~~at ONE~~ Class 7 micro–brewery license issued under subparagraph (ii) of this paragraph **BUT NOT BOTH** may be issued only for a location in an enterprise zone [in the City of Salisbury].*

*(iv) ~~A holder of a Class 7 micro–brewery license issued under subparagraph (ii) of this paragraph may sell beer for off–premises consumption only to a wholesaler licensed under this article.~~*

12–302.

~~(a) Unless provision is made elsewhere, the following provisions apply statewide to persons who are employed in licensed establishments:~~

~~(1) A person under age 18 may not be engaged in the sale of alcoholic beverages.~~

~~(2) Except for Class D beer, wine and liquor licensees as provided in paragraph (3) of this subsection, a person between ages 18 and 21 may be employed in the sale of beer and light wine.~~

~~(3) A person under age 21 may not be employed by any holder of a Class D beer, wine and liquor license in the sale of alcoholic beverages.~~

~~(4) A person 18 years old and older may be employed by a Class A licensee to operate a lottery ticket terminal.~~

(b) In the following jurisdictions the specified exceptions to subsection (a) of this section apply:

**(13) IN WICOMICO COUNTY COUNTY, A PERSON AN INDIVIDUAL WHO IS AT LEAST 16 YEARS OLD AND HAS A WORK PERMIT MAY BE EMPLOYED AT A LICENSED PREMISES TO STOCK ALCOHOLIC BEVERAGES OR CLEAR TABLES AND BAR AREAS.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

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Chapter 420

(House Bill 559)

AN ACT concerning

**Prince George's County – Winery Special Event Permits – Farmers' Markets****PG 304–10**

FOR the purpose of authorizing the issuance of a certain number of additional winery special event permits to certain wineries for use in certain farmers' markets in Prince George's County; prohibiting a holder of a permit from selling wine by the glass; requiring that a certain individual who is certified by an alcohol awareness program be present during the hours when wine may be sold; and generally relating to farmers' markets in Prince George's County.

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 2–101(u)(1)

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

BY adding to

Article 2B – Alcoholic Beverages

Section 2–101(u)(7)

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

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

**Article 2B – Alcoholic Beverages**

2–101.

(u) (1) The Office of the Comptroller may issue a winery special event permit to a licensed Class 4 Maryland limited winery, provided that:

(i) Except as provided in ~~[paragraph (6)]~~ **PARAGRAPHS (6) AND (7)** of this subsection, no more than 12 winery special event permits are issued to the Class 4 Maryland limited winery in any given calendar year;

(ii) The permit does not exceed 3 consecutive days; and

(iii) Except as provided in ~~[paragraph (6)]~~ **PARAGRAPHS (6) AND (7)** of this subsection, no more than three winery special event permits are issued in any calendar year to any given limited winery for use in the same political subdivision.

(7) (I) IN ADDITION TO THE WINERY SPECIAL EVENT PERMITS THAT MAY BE ISSUED UNDER PARAGRAPH (1)(I) AND (III) OF THIS SUBSECTION, A CLASS 4 MARYLAND LIMITED WINERY MAY BE ISSUED NOT MORE THAN 12 WINERY SPECIAL EVENT PERMITS FOR USE AT FARMERS' MARKETS IN PRINCE GEORGE'S COUNTY THAT ARE LISTED ON THE FARMERS' MARKET DIRECTORY OF THE MARYLAND DEPARTMENT OF AGRICULTURE.

(II) IF A WINERY SPECIAL EVENT PERMIT IS ISSUED UNDER ~~THIS SECTION IS ISSUED~~ PARAGRAPH:

1. THE HOLDER OF THE PERMIT MAY NOT SELL WINE BY THE GLASS; AND

2. THE FARMERS' MARKET ADMINISTRATOR OR THE ADMINISTRATOR'S DESIGNEE AND THE HOLDER OF THE PERMIT OR THE HOLDER'S DESIGNEE SHALL BE:

A. CERTIFIED BY AN ALCOHOL AWARENESS PROGRAM APPROVED BY THE COMPTROLLER; AND

B. PRESENT DURING THE HOURS WHEN WINE MAY BE SOLD.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 421

(House Bill 566)

AN ACT concerning

**Prince George's County – Community Association Property Management Services – Registration**

PG 419–10

FOR the purpose of requiring, in Prince George's County, that the Office of Community Relations establish a certain registry of entities providing certain community association management services for condominiums, homeowners associations, or cooperative housing corporations located in the county;

requiring certain entities to register with the registry; requiring an entity to register annually by a certain date and pay a certain fee; requiring the Office to provide the registration form and collect a certain fee; requiring the annual fee to be a certain amount; requiring certain information to be included in the registration form; authorizing the Office to make certain information available to the public under certain conditions; making a willful violation of this Act a misdemeanor subject on conviction to a certain penalty; defining certain terms; providing for the application of this Act; and generally relating to the registration of entities providing community association property management services in Prince George's County.

BY adding to

Article – Real Property

Section 14–130

Annotated Code of Maryland

(2003 Replacement Volume and 2009 Supplement)

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

**Article – Real Property**

**14–130.**

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

**(2) “COMMUNITY ASSOCIATION” MEANS:**

**(I) A CONDOMINIUM COUNCIL OF UNIT OWNERS ORGANIZED UNDER TITLE 11, SUBTITLE 1 OF THIS ARTICLE;**

**(II) A HOMEOWNERS ASSOCIATION ORGANIZED UNDER TITLE 11B OF THIS ARTICLE; OR**

**(III) A COOPERATIVE HOUSING CORPORATION ORGANIZED UNDER TITLE 5, SUBTITLE 6B OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.**

**(3) “COMMUNITY ASSOCIATION MANAGEMENT” MEANS TO MANAGE THE COMMON PROPERTY AND SERVICES OF A COMMUNITY ASSOCIATION WITH THE AUTHORITY OF THE COMMUNITY ASSOCIATION IN ITS BUSINESS, LEGAL, FINANCIAL, OR OTHER TRANSACTIONS WITH ASSOCIATION MEMBERS AND NONMEMBERS FOR A FEE, COMMISSION, OR OTHER VALUABLE CONSIDERATION, INCLUDING:**

(I) COLLECTING MONTHLY ASSESSMENTS;

(II) PREPARING BUDGETS, FINANCIAL STATEMENTS, OR OTHER FINANCIAL REPORTS;

(III) NEGOTIATING CONTRACTS OR OTHERWISE COORDINATING OR ARRANGING FOR SERVICES OR THE PURCHASE OF PROPERTY OR GOODS FOR OR ON BEHALF OF A COMMUNITY ASSOCIATION;

(IV) EXECUTING THE RESOLUTIONS AND DECISIONS OF A COMMUNITY ASSOCIATION AND ASSISTING THE GOVERNING BODY OF A COMMUNITY ASSOCIATION AND ASSOCIATION MEMBERS IN COMPLYING WITH LAWS, CONTRACTS, COVENANTS, RULES, AND BYLAWS;

(V) MANAGING THE OPERATION AND MAINTENANCE OF COMMUNITY-OWNED PROPERTIES, INCLUDING COMMUNITY CENTERS, POOLS, GOLF COURSES, AND PARKING AREAS; AND

(VI) ARRANGING, CONDUCTING, OR COORDINATING MEETINGS OF A COMMUNITY ASSOCIATION OR THE GOVERNING BODY OF AN ASSOCIATION.

(4) “OFFICE” MEANS THE PRINCE GEORGE’S COUNTY OFFICE OF COMMUNITY RELATIONS.

(5) “REGISTRY” MEANS THE COMMUNITY ASSOCIATION MANAGERS REGISTRY.

(B) THIS SECTION APPLIES ONLY IN PRINCE GEORGE’S COUNTY.

(C) ON OR AFTER JANUARY 1, 2011, THE OFFICE SHALL ESTABLISH A REGISTRY.

(D) ANY ENTITY, INCLUDING A SOLE PROPRIETORSHIP, THAT PROVIDES COMMUNITY ASSOCIATION MANAGEMENT SERVICES FOR COMMUNITY ASSOCIATIONS LOCATED IN THE COUNTY SHALL REGISTER WITH THE REGISTRY AND RENEW ITS REGISTRATION BY JANUARY 31 OF EACH YEAR.

(E) (1) THE OFFICE SHALL:

(I) PROVIDE THE REGISTRATION FORM; AND

(II) COLLECT A ~~REASONABLE~~ FEE FROM EACH ENTITY THAT REGISTERS UNDER THIS SECTION.

(2) THE ANNUAL FEE CHARGED SHALL BE SET ~~TO PRODUCE FUNDS TO APPROXIMATE THE COST OF MAINTAINING THE REGISTRY, BUT MAY NOT BE LESS THAN~~ AT \$100.

(F) THE REGISTRATION FORM SHALL INCLUDE:

(1) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE ENTITY PROVIDING COMMUNITY ASSOCIATION MANAGEMENT SERVICES;

(2) THE NAMES, TITLES, AND BUSINESS TELEPHONE NUMBERS OF THE PRINCIPAL OFFICERS OF THE ENTITY;

(3) THE DESIGNATED CONTACT PERSON OF THE ENTITY, INCLUDING NAME, ADDRESS, TITLE, TELEPHONE NUMBER, AND ELECTRONIC MAIL ADDRESS;

(4) THE LENGTH OF TIME THE ENTITY HAS BEEN IN EXISTENCE AND THE LENGTH OF TIME THE ENTITY HAS PROVIDED COMMUNITY ASSOCIATION MANAGEMENT SERVICES; AND

(5) A LISTING OF ALL COMMUNITY ASSOCIATIONS IN THE COUNTY AS OF DECEMBER 31 OF THE PREVIOUS YEAR FOR WHICH THE ENTITY PROVIDED COMMUNITY ASSOCIATION MANAGEMENT SERVICES.

(G) THE OFFICE MAY MAKE ANY INFORMATION RECEIVED UNDER THIS SECTION AVAILABLE TO THE PUBLIC, SUBJECT TO THE PROVISIONS OF THE MARYLAND PUBLIC INFORMATION ACT.

(H) A PERSON WHO COMMITS A WILLFUL VIOLATION OF THIS SECTION OR WHO CAUSES A PERSON TO COMMIT A WILLFUL VIOLATION OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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**Chapter 422****(House Bill 570)**

AN ACT concerning

**Prince George's County – Alcoholic Beverages – Extinguishment of Licenses****PG 306–10**

FOR the purpose of ~~requiring the Prince George's County Board of License Commissioners to declare an alcoholic beverages license to be extinguished under certain circumstances;~~ authorizing a person to obtain a certain license in Prince George's County for the purpose of having the Board of License Commissioners declare the license to be extinguished; requiring the Board to declare the license to be extinguished at a certain time; requiring a person that obtains a certain license for certain purposes to take certain actions and prohibiting the person from taking certain actions; authorizing the Board to impose a certain penalty for certain violations; specifying that an extinguished license may not be replaced by the Board and that an extinguished license counts as one in a certain list of licenses; providing an exception to a certain licensing restriction; and generally relating to alcoholic beverages licenses in Prince George's County.

BY repealing and reenacting, with amendments,  
Article 2B – Alcoholic Beverages  
Section 9–102(a) and 9–217(b)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,  
Article 2B – Alcoholic Beverages  
Section 9–217(a)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

BY adding to  
Article 2B – Alcoholic Beverages  
Section 9–217(b–1)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

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

**Article 2B – Alcoholic Beverages**

9-102.

(a) No more than one license provided by this article, except by way of renewal or as otherwise provided in this section, shall be issued in any county or Baltimore City, to any person, or for the use of any partnership, corporation, unincorporated association, or limited liability company, in Baltimore City or any county of the State, and no more than one license shall be issued for the same premises except as provided in §§ 2-201 through 2-208, 2-301, and 6-701 of this article, and nothing herein shall be construed to apply to § 6-201(r)(4), (15), and (17), § 7-101(b) and (c), § 8-202(g)(2)(ii) and (iii), § 8-217(e), § 8-508, § 9-217(B-1), or § 12-202 of this article.

9-217.

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

(b) [The] **SUBJECT TO SUBSECTION (B-1) OF THIS SECTION, THE** number of licenses of each class of alcoholic beverage licenses may not exceed the following maximum amounts:

(1)	Beer license, Class A .....	19
(2)	Beer license, Class B .....	23
(3)	Beer license, Class C .....	3
(4)	Beer license, Class D .....	76
(5)	Beer and light wine license, Class A.....	26
(6)	Beer and light wine license, Class B.....	45
(7)	Beer and light wine license, Class B-GC .....	4
(8)	Beer and light wine license, Class B-Stadium .....	1
(9)	Beer and light wine license, Class C.....	8
(10)	Beer and light wine license, Class D .....	55
(11)	Beer, wine and liquor license, Class A.....	142
(12)	Beer, wine and liquor license, Class B.....	185
(13)	Beer, wine and liquor license, Class BCE .....	8
(14)	Beer, wine and liquor license, Class B-CI.....	2

(15) Reserved.

(16) Beer, wine and liquor license, Class B/ECF ..... 1

(17) Beer, wine and liquor license, Class B–ECF/DS ..... 1

(18) Beer, wine and liquor license, Class B–ECR..... 1

(19) Beer, wine and liquor license, Class B–Stadium ..... 1

(20) Beer, wine and liquor license, Class C

(i) Under § 6–301(r)(2)..... 30

(ii) Under § 6–301(r)(3)..... 25

(iii) Under § 6–301(r)(4)..... 4

(iv) Under § 6–301(r)(5)..... 12

(v) Under § 6–301(r)(7)..... 1

~~**(B-1) (1) THE BOARD OF LICENSE COMMISSIONERS SHALL DECLARE A LICENSE TO BE EXTINGUISHED IF THE HOLDER OF THE LICENSE:**~~

~~**(I) INFORMS THE BOARD IN WRITING OF THE INTENT NOT TO OPERATE AN ESTABLISHMENT FOR WHICH THE LICENSE WAS ISSUED; AND**~~

~~**(II) PROVIDES EVIDENCE TO SATISFY THE BOARD THAT ALL TAXES OR OBLIGATIONS TO WHOLESALERS OR OTHER PERSONS HAVE BEEN PAID.**~~

**(B-1) (1) A PERSON MAY OBTAIN A CLASS A LICENSE OF ANY KIND FOR THE PURPOSE OF HAVING THE BOARD OF LICENSE COMMISSIONERS DECLARE THE LICENSE TO BE EXTINGUISHED.**

**(2) (I) THE PERSON SHALL INFORM THE BOARD OF LICENSE COMMISSIONERS OF THE PURPOSE FOR OBTAINING THE LICENSE.**

**(II) THE BOARD OF LICENSE COMMISSIONERS SHALL DECLARE THE LICENSE TO BE EXTINGUISHED WHEN THE PERSON COMES INTO POSSESSION OF THE LICENSE.**

**(3) WITHIN 10 DAYS AFTER HAVING COME INTO POSSESSION OF THE LICENSE, THE PERSON SHALL:**

**(I) SURRENDER THE LICENSE TO THE BOARD OF LICENSE COMMISSIONERS; AND**

**(II) PROVIDE EVIDENCE TO SATISFY THE BOARD THAT ALL TAXES OR OBLIGATIONS TO WHOLESALERS OR OTHER PERSONS HAVE BEEN PAID.**

**(4) A PERSON THAT OBTAINS A LICENSE UNDER THIS SUBSECTION MAY NOT EXERCISE THE PRIVILEGES OF, SELL, ASSIGN, OR APPLY FOR TRANSFER OF THE LICENSE.**

**(5) THE BOARD OF LICENSE COMMISSIONERS MAY IMPOSE ON A PERSON WHO VIOLATES THIS SUBSECTION A PENALTY NOT EXCEEDING \$1,000.**

**~~(2)~~ (6) A LICENSE THAT IS EXTINGUISHED UNDER THIS SUBSECTION:**

**(I) MAY NOT BE REPLACED BY THE BOARD; AND**

**(II) COUNTS AS ONE OF THE NUMBER OF LICENSES IN THE APPROPRIATE CLASS LISTED IN SUBSECTION (B) OF THIS SECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 423

(House Bill 571)

AN ACT concerning

### Prince George's County – Alcoholic Beverages Licenses – Waterfront Entertainment Retail Complex

PG 316–10

FOR the purpose of authorizing the Board of License Commissioners for Prince George's County to issue a special Class D beer and wine license for an

establishment in a certain waterfront entertainment retail complex; specifying the hours and days of sale; specifying that the license holder need not meet any food requirements; specifying that beer and wine may be sold on or off the premises; authorizing the Board to issue a Class D beer and wine license to an individual or entity that holds a certain event in a certain location; authorizing the license holder to sell beer and wine for consumption on or off the licensed premises; specifying the days and hours of sale; specifying that the event may not last longer than a certain time; providing that a holder of the licenses is not prevented from holding a certain other license; authorizing the Board to adopt certain regulations; setting certain license fees; and generally relating to alcoholic beverages licenses in Prince George's County.

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 6–401(r) and 7–101(b)(11)

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

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

**Article 2B – Alcoholic Beverages**

6–401.

(r) (1) This [section does not apply] **SUBSECTION APPLIES ONLY** in Prince George's County.

(2) **THERE IS A SPECIAL CLASS D BEER AND WINE LICENSE THAT MAY BE ISSUED FOR AN ESTABLISHMENT IN A WATERFRONT ENTERTAINMENT RETAIL COMPLEX, AS DEFINED IN THE COUNTY ZONING ORDINANCE.**

(3) **THE HOURS OF OPERATION ARE FROM 9 A.M. TO 2 A.M. THE FOLLOWING DAY.**

(4) **A LICENSE HOLDER NEED NOT MEET ANY FOOD REQUIREMENTS.**

(5) **BEER AND WINE MAY BE SOLD ON AND OFF THE PREMISES 7 DAYS A WEEK.**

(6) **THE ANNUAL LICENSE FEE IS \$660.**

7–101.

(b) (11) In Prince George's County:

(i) Except as provided in ~~item (ii)~~ ITEMS (II) AND (IV) of this paragraph, the fee is \$50 per day;

(ii) For a club, society, or association holding a casino or gambling event, the fee is \$100 per day, which shall be paid by the club, society, or association and shall be considered as part of the club's, society's, or association's special license fee; [and]

(iii) The Board of License Commissioners may deny an application for this license if it is determined that the applicant does not qualify under the provisions of this article; AND

**(IV) 1. THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A CLASS D BEER AND WINE LICENSE TO AN INDIVIDUAL OR ENTITY THAT HOLDS AN EVENT IN THE PROPERTY OF A CONCEPTUAL SITE PLAN AT LEAST PART OF WHICH INCLUDES A WATERFRONT ENTERTAINMENT RETAIL COMPLEX AS DEFINED BY THE COUNTY ZONING ORDINANCE;**

**2. A HOLDER OF THE LICENSE MAY DISPLAY AND SELL BEER AND WINE AT RETAIL FOR CONSUMPTION ON OR OFF THE LICENSED PREMISES DURING THE DAYS AND HOURS DESIGNATED FOR THE EVENT;**

**3. AN EVENT FOR WHICH THE LICENSE IS ISSUED MAY NOT LAST LONGER THAN 7 CONSECUTIVE DAYS;**

**4. THIS SUBPARAGRAPH DOES NOT PREVENT A HOLDER OF THE LICENSE FROM HOLDING ANOTHER ALCOHOLIC BEVERAGES LICENSE OF A DIFFERENT CLASS OR NATURE; ~~AND~~**

**5. THE BOARD OF LICENSE COMMISSIONERS MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBPARAGRAPH; AND**

**6. THE LICENSE FEE IS \$100 PER DAY.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 4, 2010.

AN ACT concerning

**Prince George's County ~~and Montgomery County~~ Delegation – Development Permits – Expedited Review for Qualifying Redevelopment Projects**

**PG/MC 115–10**

FOR the purpose of requiring Prince George's County to approve or disapprove applications for certain development permits for certain qualifying redevelopment projects and to provide applicants with certain notice of the approval or disapproval within a certain amount of time; extending the amount of time under certain circumstances within which Prince George's County has to approve or disapprove a certain application and provide applicants with certain notice; ~~requiring the district council for Prince George's County to define a certain term by ordinance for a certain purpose~~; requiring the district council to ~~require~~ a certain project to incorporate ~~a certain minimum number of~~ certain environmentally responsible design elements; ~~requiring the district council to set forth certain procedures by ordinance~~; defining certain terms; and generally relating to redevelopment in the portion of the Maryland–Washington Regional District located in Prince George's County.

BY adding to

Article 28 – Maryland–National Capital Park and Planning Commission  
Section 8–128  
Annotated Code of Maryland  
(2003 Replacement Volume and 2009 Supplement)

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

**Article 28 – Maryland–National Capital Park and Planning Commission**

**8–128.**

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

(2) “COUNTY” MEANS PRINCE GEORGE’S COUNTY.

(3) “COUNTY AGENCY” INCLUDES THE:

(I) COMMISSION;

(II) PRINCE GEORGE’S COUNTY DEPARTMENT OF ENVIRONMENTAL RESOURCES;

(III) PRINCE GEORGE'S COUNTY DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION;

(IV) PRINCE GEORGE'S COUNTY FIRE/EMS DEPARTMENT;

(V) PRINCE GEORGE'S COUNTY HEALTH DEPARTMENT;

AND

(VI) WASHINGTON SUBURBAN SANITARY COMMISSION.

~~(3)~~ (4) "DEVELOPMENT" HAS THE MEANING SET FORTH IN ARTICLE 66B, § 1.00 OF THE CODE.

(5) "DEVELOPMENT PERMIT" MEANS A BUILDING OR OTHER PERMIT ISSUED IN WRITING, AS REQUIRED BY COUNTY ORDINANCE OR REGULATION, TO AUTHORIZE THE BEGINNING OF CONSTRUCTION ACTIVITIES FOR THE ALTERATION, ENLARGEMENT, CONVERSION, RECONSTRUCTION, REMODELING, REHABILITATION, ERECTION, DEMOLITION, OR RELOCATION OF AN EXISTING STRUCTURE.

~~(4) "DISTRICT COUNCIL" MEANS THE COUNTY COUNCIL FOR PRINCE GEORGE'S COUNTY.~~

~~(5)~~ (6) "QUALIFYING REDEVELOPMENT PROJECT" MEANS A DEVELOPMENT PROJECT TO REHABILITATE DILAPIDATED REAL PROPERTY THROUGH DEMOLITION, RECONSTRUCTION, OR REUSE THAT QUALIFIES FOR EXPEDITED PERMIT REVIEW UNDER THIS SECTION, ~~AS SET FORTH BY ORDINANCE BY THE DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY IN ACCORDANCE WITH THIS SECTION.~~

(B) THIS SECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

(C) THE PURPOSE OF THIS SECTION IS TO ENCOURAGE ENVIRONMENTALLY RESPONSIBLE URBAN RENEWAL AND REVITALIZATION THROUGH EXPEDITED REVIEW OF DEVELOPMENT PERMITS REQUIRED FOR QUALIFYING REDEVELOPMENT PROJECTS.

(D) (1) ~~WITHIN~~ EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, WITHIN 90 DAYS AFTER RECEIVING AN APPLICATION FOR A DEVELOPMENT PERMIT FOR A QUALIFYING REDEVELOPMENT PROJECT, THE COUNTY SHALL:

~~(1)~~ (1) APPROVE OR DISAPPROVE THE APPLICATION; AND

~~(2)~~ (II) PROVIDE THE APPLICANT WITH WRITTEN NOTICE OF THE APPROVAL OR DISAPPROVAL.

(2) THE COUNTY SHALL HAVE AN ADDITIONAL 60 DAYS TO COMPLY WITH PARAGRAPH (1) OF THIS SUBSECTION IF:

(I) 1. A COUNTY AGENCY INVOLVED IN THE REVIEW OF THE APPLICATION DETERMINES THAT THE EXTENSION IS NECESSARY TO COMPLETE THE REVIEW BASED ON THE NATURE OR COMPLEXITY OF THE APPLICATION OR UNRESOLVED ISSUES RELATED TO THE APPLICATION; AND

2. THE COUNTY AGENCY PROVIDES WRITTEN NOTICE OF THE EXTENSION TO THE APPLICANT; OR

(II) 1. THE APPLICANT MODIFIES THE APPLICATION FOR ANY REASON, INCLUDING FOR THE PURPOSE OF RESPONDING TO A REQUEST FROM A COUNTY AGENCY THAT IS INVOLVED IN THE REVIEW OF THE APPLICATION; AND

2. THE MODIFICATION IS MADE DURING THE ORIGINAL 90-DAY PERIOD PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) IN ADDITION TO THE 60-DAY EXTENSION PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE COUNTY SHALL HAVE AN ADDITIONAL 30 DAYS TO COMPLY WITH PARAGRAPH (1) OF THIS SUBSECTION IF:

(I) THE APPLICANT MODIFIES THE APPLICATION FOR ANY REASON, INCLUDING FOR THE PURPOSE OF RESPONDING TO A REQUEST FROM A COUNTY AGENCY THAT IS INVOLVED IN THE REVIEW OF THE APPLICATION; AND

(II) THE MODIFICATION IS MADE DURING THE 60-DAY EXTENSION PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

~~(E) THE DISTRICT COUNCIL SHALL BY ORDINANCE:~~

~~(1) DEFINE A QUALIFYING REDEVELOPMENT PROJECT FOR THE PURPOSE OF IMPLEMENTING THIS SECTION;~~

~~(2) REQUIRE A QUALIFYING REDEVELOPMENT PROJECT TO SHALL INCORPORATE AT LEAST ONE ENVIRONMENTALLY RESPONSIBLE DESIGN~~

~~ELEMENT, ELEMENTS AS DEFINED BY THE DISTRICT COUNCIL, INCLUDING A DESIGN ELEMENT THAT PROMOTES~~ PROMOTE:

~~(I)~~ (1) WATER CONSERVATION BY USING PRACTICES, TECHNIQUES, AND TECHNOLOGIES THAT:

(I) REDUCE THE CONSUMPTION, LOSS, OR WASTE OF WATER;

(II) IMPROVE EFFICIENCY IN THE USE OF WATER; OR

(III) MAKE MORE EFFICIENT USE OF THE WATER TREATMENT INFRASTRUCTURE;

~~(II)~~ (2) ENERGY EFFICIENCY BY USING PRACTICES, TECHNIQUES, AND TECHNOLOGIES THAT REDUCE AND MINIMIZE THE CONSUMPTION, LOSS, OR WASTE OF ENERGY; ~~OR~~ AND

~~(III)~~ (3) THE USE OF RECYCLED OR RECYCLABLE BUILDING MATERIALS; AND

~~(3) SET FORTH PROCEDURES FOR THE UNIFORM PROCESSING OF REQUESTS FOR THE REVIEW OF DEVELOPMENT PERMITS IN ACCORDANCE WITH THIS SECTION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 425

(House Bill 582)

AN ACT concerning

**Prince George's County – Issuance of Alcoholic Beverages Licenses and Park Permits – Notification**

PG/MC 112-10

FOR the purpose of requiring the Prince George's County Board of License Commissioners to notify certain county officials and, if applicable, a certain

municipal corporation, of certain information when the Board issues a special Class C beer, wine and liquor license; requiring an administrative official who issues a use and occupancy permit in Prince George's County to notify promptly certain county officials and, if applicable, a certain municipal corporation, when the Commission official issues a certain permit that allows entertainment to be held in the county under certain circumstances; and generally relating to alcoholic beverages licenses and park permits in Prince George's County.

BY repealing and reenacting, without amendments,  
Article 2B – Alcoholic Beverages  
Section 7–101(d)(1)(i)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
Article 2B – Alcoholic Beverages  
Section 7–101(d)(11)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,  
Article 28 – Maryland–National Capital Park and Planning Commission  
Section 8–119  
Annotated Code of Maryland  
(2003 Replacement Volume and 2009 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.

(d) (1) (i) A special Class C beer, wine and liquor license entitles the holder to exercise any of the privileges conferred by this class of license for the use of any person holding a bona fide entertainment conducted by a club, society, or association at the place described for a period not exceeding seven consecutive days, upon the payment of a fee of \$15 per day.

(11) (I) [In] **THIS PARAGRAPH APPLIES ONLY IN** Prince George's County[;].

[i] (II) Except as provided in item [(ii)] (III) of this paragraph, the fee is \$150 per day[;].

[(ii)] (III) For a club, society, or association holding a casino or gambling event, the fee is \$150 per day, which shall be paid by the club, society, or association and shall be considered as part of the club's, society's, or association's special license fee[; and].

**(IV) WHEN THE BOARD OF LICENSE COMMISSIONERS ISSUES A LICENSE UNDER THIS PARAGRAPH, THE BOARD SHALL NOTIFY THE CHIEF OF POLICE, THE FIRE CHIEF, ~~AND~~ THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL RESOURCES, AND, IF APPLICABLE, THE MUNICIPAL CORPORATION IN WHICH THE EVENT IS TO BE HELD, AS TO THE TIME, PLACE, AND EXPECTED SIZE OF THE EVENT FOR WHICH THE LICENSE IS ISSUED.**

[(iii)] (V) The Board of License Commissioners may deny an application for this license if it is determined that the applicant does not qualify under the provisions of this article.

#### **Article 28 – Maryland–National Capital Park and Planning Commission**

8–119.

(a) A building or other structure may not be erected or structurally altered in the regional district without the issuance of a building permit, and a permit may not be given except in conformity with the provisions of this article and of the regulations enacted by the respective district councils. A building permit is not required for buildings and structures to be used exclusively for purposes of agriculture upon land used exclusively for agriculture. In any part of the regional district in which there does not now exist provision of law or ordinance designating an administrative official by whom building permits are to be issued, the appropriate district council shall designate this official. An act, ordinance, or regulation issued under the authority of this article does not require the approval by the Commission of any building permit in Montgomery County or Prince George's County, and any acts, ordinances, or regulations inconsistent herewith are repealed to the extent of the inconsistency. However, in Montgomery County, all building permit applications shall be referred to the Commission for review and recommendations as to zoning requirements. In Prince George's County, the County Council may provide by ordinance for the referral of some or all building permit applications to the Commission for review and recommendations as to zoning requirements.

(b) A district council may provide in its zoning regulations for the issuance of use and occupancy permits and for certificates by means of which zoning questions may be raised prior to the preparation of all structural specifications of a building as may be required for a complete building permit.

**(C) (1) THIS SUBSECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.**

(2) WHEN AN ADMINISTRATIVE OFFICIAL ISSUES A USE AND OCCUPANCY PERMIT THAT UNDER THE APPLICABLE COUNTY ZONING ORDINANCE ALLOWS ENTERTAINMENT TO BE HELD FOR AN ASSOCIATION, A CLUB, A SOCIETY, OR OTHER ORGANIZATION OR THE PUBLIC, THE OFFICIAL PROMPTLY SHALL TRANSMIT A COPY OF THE PERMIT OR GIVE OTHER NOTICE OF THE ISSUANCE OF THE PERMIT TO:

(I) THE BOARD OF LICENSE COMMISSIONERS;

(II) THE CHIEF OF POLICE;

(III) THE FIRE CHIEF; ~~AND~~

(IV) THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL RESOURCES; AND

(V) IF APPLICABLE, THE MUNICIPAL CORPORATION IN WHICH THE ENTERTAINMENT IS TO BE HELD.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 4, 2010.

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## Chapter 426

(House Bill 592)

AN ACT concerning

### Queen Anne's County – Property Tax Credit – Foster Parent

FOR the purpose of authorizing the governing body of Queen Anne's County to grant, by law, a tax credit against the county property tax imposed on certain property owned by ~~certain individuals~~ a foster parent of a child; authorizing the governing body of Queen Anne's County to provide, by law, for eligibility ~~and certification~~ criteria for the credit, the amount and duration of the credit, certain regulations and procedures, and any other provision necessary to carry out the credit; providing for the application of this Act; and generally relating to a property tax credit in Queen Anne's County for certain property owned by ~~certain individuals~~ a foster parent of a child.

BY adding to

Article – Tax – Property

Section 9-319(e)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 Supplement)

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

**Article – Tax – Property**

9-319.

**(E) (1) THE GOVERNING BODY OF QUEEN ANNE'S COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT UNDER THIS SUBSECTION AGAINST THE COUNTY PROPERTY TAX IMPOSED ON REAL PROPERTY THAT IS OWNED BY A FOSTER PARENT OF A CHILD.**

**(2) THE GOVERNING BODY OF QUEEN ANNE'S COUNTY MAY PROVIDE, BY LAW, FOR:**

**(I) ELIGIBILITY CRITERIA FOR THE TAX CREDIT UNDER THIS SUBSECTION;**

**(II) THE AMOUNT AND DURATION OF THE TAX CREDIT UNDER THIS SUBSECTION;**

**(III) REGULATIONS AND PROCEDURES FOR THE APPLICATION AND UNIFORM PROCESSING OF REQUESTS FOR THE TAX CREDIT; AND**

**(IV) ANY OTHER PROVISION NECESSARY TO CARRY OUT THE CREDIT UNDER THIS SUBSECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010, and shall be applicable to all taxable years beginning after June 30, 2010.

**Approved by the Governor, May 4, 2010.**

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**Chapter 427**

**(House Bill 642)**

AN ACT concerning

**Prince George’s County – Real Property – Home Builders – Community Amenities**

**PG 407–10**

FOR the purpose of ~~requiring a home builder that agrees to provide a community amenity to a community development located in Prince George’s County to include certain information in the contract of sale; requiring a certain home builder to make a certain community amenity available by a certain date; providing for a certain penalty;~~ requiring a contract of sale for certain property in Prince George’s County that includes a certain agreement to include a certain disclosure statement; requiring the disclosure statement to be dated and signed by the purchaser and the home builder and included in or attached to the contract of sale; providing that a certain purchaser has an unconditional right to rescind a certain contract of sale at a certain time and under certain circumstances; requiring certain advertising for a certain community development to include disclosure of certain requirements; providing that a certain home builder may be liable for breach of contract under certain circumstances; defining a certain term; providing for the application of this Act; and generally relating to home builders and disclosure of community amenities in Prince George’s County.

BY adding to

Article – Real Property

Section 10–708

Annotated Code of Maryland

(2003 Replacement Volume and 2009 Supplement)

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

**Article – Real Property**

**10–708.**

**(A) IN THIS SECTION, “COMMUNITY AMENITY” INCLUDES:**

- (1) A COUNTRY CLUB;**
- (2) A GOLF COURSE;**
- (3) A HEALTH CLUB;**
- (4) A PARK;**
- (5) A SWIMMING POOL;**

(6) A TENNIS COURT; AND

(7) A WALKING TRAIL.

~~(B) (1) A HOME BUILDER THAT AGREES TO PROVIDE A COMMUNITY AMENITY TO A COMMUNITY DEVELOPMENT LOCATED IN PRINCE GEORGE'S COUNTY SHALL INCLUDE IN THE CONTRACT OF SALE THE DATE BY WHICH THE COMMUNITY AMENITY WILL BE MADE AVAILABLE IN PRINCE GEORGE'S COUNTY, A CONTRACT OF SALE FOR RESIDENTIAL REAL PROPERTY THAT INCLUDES AN AGREEMENT BY THE HOME BUILDER TO PROVIDE A COMMUNITY AMENITY SHALL INCLUDE A DISCLOSURE STATEMENT THAT:~~

(I) IDENTIFIES THE COMMUNITY AMENITY PROVIDED IN THE CONTRACT OF SALE; AND

(II) SPECIFIES WHEN THE COMMUNITY AMENITY WILL BE COMPLETED IN ACCORDANCE WITH A RECREATIONAL FACILITIES AGREEMENT RECORDED WITH THE PRINCE GEORGE'S COUNTY PLANNING DEPARTMENT.

~~(2) A HOME BUILDER SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION SHALL MAKE THE COMMUNITY AMENITY AVAILABLE BY THE DATE STATED IN THE CONTRACT OF SALE~~ THE DISCLOSURE STATEMENT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE:

(I) DATED AND SIGNED BY THE PURCHASER AND THE HOME BUILDER; AND

(II) INCLUDED IN OR ATTACHED TO THE CONTRACT OF SALE.

(3) A PURCHASER WHO DOES NOT RECEIVE THE DISCLOSURE STATEMENT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION ON OR BEFORE ENTERING INTO THE CONTRACT OF SALE HAS AN UNCONDITIONAL RIGHT, ON WRITTEN NOTICE TO THE HOME BUILDER, TO RESCIND THE CONTRACT OF SALE AT ANY TIME:

(I) BEFORE THE RECEIPT OF THE DISCLOSURE STATEMENT; OR

(II) WITHIN 5 DAYS AFTER RECEIPT OF THE DISCLOSURE STATEMENT.

(C) ANY ADVERTISING FOR A COMMUNITY DEVELOPMENT IN PRINCE GEORGE'S COUNTY THAT WILL INCLUDE A COMMUNITY AMENITY SHALL INCLUDE DISCLOSURE OF THE REQUIREMENTS UNDER THIS SECTION.

~~(c) (D) A IN PRINCE GEORGE'S COUNTY, A HOME BUILDER THAT VIOLATES SUBSECTION (B) OF THIS SECTION SHALL PAY TO THE OWNER OF EACH HOME IN THE COMMUNITY DEVELOPMENT AN AMOUNT EQUAL TO 10% OF THE PURCHASE PRICE OF THE OWNER'S HOME DOES NOT MAKE THE COMMUNITY AMENITY AVAILABLE AS PROVIDED IN THE CONTRACT OF SALE MAY BE LIABLE FOR BREACH OF CONTRACT.~~

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 contracts of sale for property in a community development located in Prince George's County entered into before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 428

(House Bill 647)

AN ACT concerning

### Department of Natural Resources – Conservation Service Opportunities – Procurement Exemption

FOR the purpose of exempting from certain provisions of the State Procurement law certain grants, agreements, or partnerships related to conservation service opportunities negotiated or entered into by the Department of Natural Resources and nonprofit entities; making this Act an emergency measure; and generally relating to procurement exemptions.

BY repealing and reenacting, with amendments,  
Article – State Finance and Procurement  
Section 11–203(a)(1)(xvii) and (xviii)  
Annotated Code of Maryland  
(2009 Replacement Volume)

BY adding to

Article – State Finance and Procurement  
 Section 11–203(a)(1)(xix)  
 Annotated Code of Maryland  
 (2009 Replacement Volume)

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

**Article – State Finance and Procurement**

11–203.

(a) Except as provided in subsection (b) of this section, this Division II does not apply to:

(1) procurement by:

(xvii) the Maryland Developmental Disabilities Administration of the Department of Health and Mental Hygiene for family and individual support services, and individual family care services, as those terms are defined by the Department of Health and Mental Hygiene in regulation; [and]

(xviii) the Department of General Services for the renovation of a structure that:

1. was built during the 18th or 19th century; and
2. is listed in or eligible for listing in the National Register of Historic Places; AND

**(XIX) THE DEPARTMENT OF NATURAL RESOURCES, FOR NEGOTIATING OR ENTERING INTO GRANTS, AGREEMENTS, OR PARTNERSHIPS WITH NONPROFIT ENTITIES RELATED TO CONSERVATION SERVICE OPPORTUNITIES;**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect October 1, 2010~~ is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, May 4, 2010.**

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**Chapter 429****(House Bill 665)**

AN ACT concerning

**Prince George's County – Domestic Violence – Conditions of Probation – Order to Carry or Wear a Global Positioning System Device GPS Tracking System Pilot Program for Offenders**

FOR the purpose of ~~authorizing a court, when placing on probation a defendant who has been convicted of a certain crime of domestic violence, to order the defendant to carry or wear a global positioning system device as a condition of probation and to provide the victim of the crime with an electronic receptor device capable of receiving certain information that notifies the victim if the defendant is located within the proximity to the victim proscribed by the court; requiring that a certain victim of a certain crime of domestic violence be furnished with certain information under certain circumstances; prohibiting a defendant from being released under this Act unless the defendant agrees to pay certain costs as a condition of release; and generally relating to conditions of probation and domestic violence~~ requiring the court in Prince George's County to implement a global positioning satellite tracking system pilot program that authorizes the court, as a condition of a defendant's pretrial release on a charge of violating a certain protective order, to order that the defendant be supervised by means of active electronic monitoring as a condition of bail under certain circumstances; requiring the court in Prince George's County to implement a global positioning satellite tracking system pilot program that authorizes the court, if the court suspends the sentence of a certain defendant convicted of failing to comply with certain relief granted in an interim protective order, temporary protective order, or final protective order, to order that the defendant be supervised by active electronic monitoring as a condition of probation under certain circumstances; authorizing the court to consider the preferences of the victim and the parties before issuing a certain order; requiring a certain defendant to pay certain fees established by the county under certain circumstances; authorizing the county court to exempt the defendant from the fee under certain circumstances; requiring the Sheriff of Prince George's County and the administrative judge for the District Court in Prince George's County to submit a certain report on the pilot program; providing for the termination of this Act; providing that the abrogation of this Act does not terminate the obligation of a defendant to comply with an order entered by a court under this Act on or before a certain date; and generally relating to a global positioning satellite tracking system pilot program in Prince George's County.

~~BY repealing and reenacting, without amendments,  
Article — Criminal Procedure  
Section 6-219(b)  
Annotated Code of Maryland~~

~~(2008 Replacement Volume and 2009 Supplement)~~

~~BY adding to~~

~~Article — Criminal Procedure~~

~~Section 6-219(g)~~

~~Annotated Code of Maryland~~

~~(2008 Replacement Volume and 2009 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article — Criminal Procedure~~

~~Section 6-220(b)~~

~~Annotated Code of Maryland~~

~~(2008 Replacement Volume and 2009 Supplement)~~

~~BY repealing and reenacting, without amendments,~~

~~Article — Family Law~~

~~Section 4-501(a), (b), (h), (l), (m), and (p), 4-504, and 4-513~~

~~Annotated Code of Maryland~~

~~(2006 Replacement Volume and 2009 Supplement)~~

BY repealing and reenacting, without amendments,

Article – Criminal Procedure

Section 5-202(e)

Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

BY adding to

Article – Criminal Procedure

Section 5-202(g)

Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Procedure

Section 6-221

Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,

Article – Family Law

Section 4-509(a)

Annotated Code of Maryland

(2006 Replacement Volume and 2009 Supplement)

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

## Article – Criminal Procedure

~~6-219.~~

~~(b) Subject to subsection (c) of this section, a court:~~

~~(1) may suspend a sentence generally or for a definite time;~~

~~(2) may pass orders and impose terms as to costs, recognizance for appearance, or matters relating to the residence or conduct of the defendant who is convicted as may be deemed proper;~~

~~(3) may order confinement in any care or custody as may be deemed proper; or~~

~~(4) may order a person to a term of custodial confinement as a condition of a suspended sentence.~~

~~(G) (1) IF THE COURT PLACES ON PROBATION A DEFENDANT WHO HAS BEEN CONVICTED OF A CRIME AGAINST A VICTIM OF DOMESTIC VIOLENCE AS DEFINED IN § 4-513 OF THE FAMILY LAW ARTICLE THAT IS CONSISTENT WITH AN ACT OF ABUSE AS DEFINED IN § 4-501 OF THE FAMILY LAW ARTICLE, ON MOTION BY THE VICTIM OF THE CRIME OR AN INDIVIDUAL WHO MAY SEEK RELIEF FROM ABUSE ON BEHALF OF THE VICTIM UNDER THE FAMILY LAW ARTICLE, THE COURT MAY:~~

~~(I) ORDER THE DEFENDANT TO CARRY OR WEAR A GLOBAL POSITIONING SYSTEM DEVICE AS A CONDITION OF PROBATION; AND~~

~~(H) PROVIDE THE VICTIM OF THE CRIME WITH:~~

~~1. AN ELECTRONIC RECEPTOR DEVICE CAPABLE OF RECEIVING THE GLOBAL POSITIONING SYSTEM INFORMATION FROM THE DEVICE CARRIED OR WORN BY THE DEFENDANT THAT NOTIFIES THE VICTIM IF THE DEFENDANT IS LOCATED WITHIN THE PROXIMITY TO THE VICTIM PROSCRIBED BY THE COURT; AND~~

~~2. A TELEPHONE CONTACT WITH THE LOCAL LAW ENFORCEMENT AGENCY TO REQUEST IMMEDIATE ASSISTANCE IF THE DEFENDANT IS LOCATED WITHIN THE PROXIMITY TO THE VICTIM PROSCRIBED BY THE COURT.~~

~~(2) A DEFENDANT DESCRIBED IN THIS SUBSECTION MAY BE RELEASED UNDER THIS SECTION ONLY IF THE DEFENDANT AGREES TO PAY THE~~

~~COST OF THE GLOBAL POSITIONING SYSTEM DEVICE AND THE MONITORING OF THE DEVICE AS A CONDITION OF RELEASE.~~

~~6-220.~~

~~(b) (1) When a defendant pleads guilty or nolo contendere or is found guilty of a crime, a court may stay the entering of judgment, defer further proceedings, and place the defendant on probation subject to reasonable conditions if:~~

~~(i) the court finds that the best interests of the defendant and the public welfare would be served; and~~

~~(ii) the defendant gives written consent after determination of guilt or acceptance of a nolo contendere plea.~~

~~(2) Subject to paragraphs (3) and (4) of this subsection, the conditions may include an order that the defendant:~~

~~(i) pay a fine or monetary penalty to the State or make restitution; or~~

~~(ii) participate in a rehabilitation program, the parks program, or a voluntary hospital program.~~

~~(3) Before the court orders a fine, monetary penalty, or restitution, the defendant is entitled to notice and a hearing to determine the amount of the fine, monetary penalty, or restitution, what payment will be required, and how payment will be made.~~

~~(4) Any fine or monetary penalty imposed as a condition of probation shall be within the amount set by law for a violation resulting in conviction.~~

~~(5) As a condition of probation, the court may order a person to a term of custodial confinement or imprisonment.~~

~~(6) (i) IF THE COURT PLACES ON PROBATION A DEFENDANT WHO HAS BEEN CONVICTED OF A CRIME AGAINST A VICTIM OF DOMESTIC VIOLENCE AS DEFINED IN § 4-513 OF THE FAMILY LAW ARTICLE THAT IS CONSISTENT WITH AN ACT OF ABUSE AS DEFINED IN § 4-501 OF THE FAMILY LAW ARTICLE, ON MOTION BY THE VICTIM OF THE CRIME OR AN INDIVIDUAL WHO MAY SEEK RELIEF FROM ABUSE ON BEHALF OF THE VICTIM UNDER THE FAMILY LAW ARTICLE, THE COURT MAY:~~

~~1. ORDER THE DEFENDANT TO CARRY OR WEAR A GLOBAL POSITIONING SYSTEM DEVICE AS A CONDITION OF PROBATION; AND~~

~~2. PROVIDE THE VICTIM OF THE CRIME WITH:~~

~~A. AN ELECTRONIC RECEPTOR DEVICE CAPABLE OF RECEIVING THE GLOBAL POSITIONING SYSTEM INFORMATION FROM THE DEVICE CARRIED OR WORN BY THE DEFENDANT THAT NOTIFIES THE VICTIM IF THE DEFENDANT IS LOCATED WITHIN THE PROXIMITY TO THE VICTIM PROSCRIBED BY THE COURT; AND~~

~~B. A TELEPHONE CONTACT WITH THE LOCAL LAW ENFORCEMENT AGENCY TO REQUEST IMMEDIATE ASSISTANCE IF THE DEFENDANT IS LOCATED WITHIN THE PROXIMITY TO THE VICTIM PROSCRIBED BY THE COURT.~~

~~(H) A DEFENDANT DESCRIBED IN THIS SUBSECTION MAY BE RELEASED UNDER THIS SECTION ONLY IF THE DEFENDANT AGREES TO PAY THE COST OF THE GLOBAL POSITIONING SYSTEM DEVICE AND THE MONITORING OF THE DEVICE AS A CONDITION OF RELEASE.~~

~~Article – Family Law~~

~~4-501.~~

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

~~(b) (1) “Abuse” means any of the following acts:~~

~~(i) an act that causes serious bodily harm;~~

~~(ii) an act that places a person eligible for relief in fear of imminent serious bodily harm;~~

~~(iii) assault in any degree;~~

~~(iv) rape or sexual offense under §§ 3-303 through 3-308 of the Criminal Law Article or attempted rape or sexual offense in any degree;~~

~~(v) false imprisonment; or~~

~~(vi) stalking under § 3-802 of the Criminal Law Article.~~

~~(2) If the person for whom relief is sought is a child, “abuse” may also include abuse of a child, as defined in Title 5, Subtitle 7 of this article. Nothing in this subtitle shall be construed to prohibit reasonable punishment, including reasonable corporal punishment, in light of the age and condition of the child, from being performed by a parent or stepparent of the child.~~

~~(3) If the person for whom relief is sought is a vulnerable adult, "abuse" may also include abuse of a vulnerable adult, as defined in Title 14, Subtitle 1 of this article.~~

~~(h) "Final protective order" means a protective order issued under § 4-506 of this subtitle.~~

~~(l) "Person eligible for relief" includes:~~

- ~~(1) the current or former spouse of the respondent;~~
- ~~(2) a cohabitant of the respondent;~~
- ~~(3) a person related to the respondent by blood, marriage, or adoption;~~
- ~~(4) a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within 1 year before the filing of the petition;~~

~~(5) a vulnerable adult; or~~

~~(6) an individual who has a child in common with the respondent.~~

~~(m) (1) "Petitioner" means an individual who files a petition.~~

~~(2) "Petitioner" includes:~~

- ~~(i) a person eligible for relief; or~~
- ~~(ii) the following persons who may seek relief from abuse on behalf of a minor or vulnerable adult:~~

~~1. the State's Attorney for the county where the child or vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;~~

~~2. the department of social services that has jurisdiction in the county where the child or vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;~~

~~3. a person related to the child or vulnerable adult by blood, marriage, or adoption; or~~

~~4. an adult who resides in the home.~~

~~(p) "Temporary protective order" means a protective order issued under § 4-505 of this subtitle.~~

~~4-504.~~

~~(a) A petitioner may seek relief from abuse by filing with a court, or with a commissioner under the circumstances specified in § 4-504.1(a) of this subtitle, a petition that alleges abuse of any person eligible for relief by the respondent.~~

~~(b) (1) The petition shall:~~

~~(i) be under oath; and~~

~~(ii) include any information known to the petitioner of:~~

~~1. the nature and extent of the abuse for which the relief is being sought, including information known to the petitioner concerning previous injury resulting from abuse by the respondent;~~

~~2. each previous action between the parties in any court;~~

~~3. each pending action between the parties in any court;~~

~~4. the whereabouts of the respondent, if known;~~

~~5. if financial relief is requested, information known to the petitioner regarding the financial resources of the respondent; and~~

~~6. in a case of alleged child abuse or alleged abuse of a vulnerable adult, the whereabouts of the child or vulnerable adult and any other information relating to the abuse of the child or vulnerable adult.~~

~~(2) If the petition states that disclosure of the address of a person eligible for relief would risk further abuse of a person eligible for relief, or reveal the confidential address of a shelter for domestic violence victims, that address may be omitted from all documents filed with a commissioner or filed with, or transferred to, a court. If disclosure is necessary to determine jurisdiction or consider any venue issue, it shall be made orally and in camera and may not be disclosed to the respondent.~~

~~(c) The petitioner may not be required to pay a filing fee or costs for the issuance or service of:~~

~~(1) an interim protective order;~~

~~(2) a temporary protective order;~~

~~(3) a final protective order; or~~

~~(4) a witness subpoena.~~

~~(d) (1) If a petitioner has requested notification of the service of a protective order, the Department of Public Safety and Correctional Services shall:~~

~~(i) notify the petitioner of the service on the respondent of an interim or a temporary protective order within one hour after a law enforcement officer electronically notifies the Department of Public Safety and Correctional Services of the service; and~~

~~(ii) notify the petitioner of the service on the respondent of a final protective order within one hour after knowledge of service of the order on the respondent.~~

~~(2) The Department of Public Safety and Correctional Services shall develop a notification request form and procedures for notification under this subsection.~~

~~(3) The court clerk or Commissioner shall provide the notification request form to a petitioner.~~

~~4-513.~~

~~In this Part III and in Part IV of this subtitle, "victim of domestic violence" means an individual who has received deliberate, severe, and demonstrable physical injury, or is in fear of imminent deliberate, severe, and demonstrable physical injury from a current or former spouse, or a current or former cohabitant, as defined in § 4-501 of this subtitle.~~

~~5-202.~~

(e) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged with violating:

(i) the provisions of a temporary protective order described in § 4-505(a)(2)(i) of the Family Law Article or the provisions of a protective order described in § 4-506(d)(1) of the Family Law Article that order the defendant to refrain from abusing or threatening to abuse a person eligible for relief; or

(ii) the provisions of an order for protection, as defined in § 4-508.1 of the Family Law Article, issued by a court of another state or of a Native American tribe that order the defendant to refrain from abusing or threatening to abuse a person eligible for relief, if the order is enforceable under § 4-508.1 of the Family Law Article.

(2) A judge may allow the pretrial release of a defendant described in paragraph (1) of this subsection on:

(i) suitable bail;

(ii) any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community; or

(iii) both bail and other conditions described under subparagraph (ii) of this paragraph.

(3) When a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued detention of the defendant if the judge determines that neither suitable bail nor any condition or combination of conditions will reasonably ensure that the defendant will not flee or pose a danger to another person or the community before the trial.

(G) (1) THIS SUBSECTION APPLIES ONLY IN PRINCE GEORGE’S COUNTY.

(2) THE ~~COURT~~ COUNTY SHALL IMPLEMENT A GLOBAL POSITIONING SATELLITE TRACKING SYSTEM PILOT PROGRAM AS A CONDITION OF PRETRIAL RELEASE OF A DEFENDANT DESCRIBED IN SUBSECTION (E) OF THIS SECTION.

(3) (I) THE COURT MAY ORDER THAT, AS A CONDITION OF BAIL, THE DEFENDANT BE:

1. SUPERVISED BY MEANS OF ACTIVE ELECTRONIC MONITORING; AND

2. EXCEPT AS PROVIDED IN SUBPARAGRAPH ~~(II)~~ (III) OF THIS PARAGRAPH, RESPONSIBLE FOR PAYING THE FEE FOR ACTIVE ELECTRONIC MONITORING ESTABLISHED BY THE COUNTY.

(II) BEFORE ISSUING AN ORDER UNDER SUBPARAGRAPH (I)1 OF THIS PARAGRAPH, THE COURT MAY CONSIDER THE PREFERENCES OF THE VICTIM AND THE PARTIES.

(III) IF THE ~~COUNTY~~ COURT DETERMINES THAT A DEFENDANT CANNOT AFFORD TO PAY THE FEE ESTABLISHED IN SUBPARAGRAPH (I)2 OF THIS PARAGRAPH, THE ~~COUNTY~~ COURT MAY EXEMPT THE DEFENDANT WHOLLY OR PARTLY FROM THE FEE.

(A) On entering a judgment of conviction, the court may suspend the imposition or execution of sentence and place the defendant on probation on the conditions that the court considers proper.

(B) (1) THIS SUBSECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

(2) THE ~~COURT~~ COUNTY SHALL IMPLEMENT A GLOBAL POSITIONING SATELLITE TRACKING SYSTEM PILOT PROGRAM AS A CONDITION OF PROBATION FOR A DEFENDANT CONVICTED UNDER § 4-509 OF THE FAMILY LAW ARTICLE.

(3) (I) ON ENTERING A JUDGMENT OF CONVICTION UNDER § 4-509 OF THE FAMILY LAW ARTICLE, IF THE COURT SUSPENDS THE IMPOSITION OR EXECUTION OF SENTENCE AND PLACES THE DEFENDANT ON PROBATION, THE COURT MAY ORDER THAT, AS A CONDITION OF PROBATION, THE DEFENDANT BE:

1. SUPERVISED BY MEANS OF ACTIVE ELECTRONIC MONITORING FOR THE DURATION OF THE PROTECTIVE ORDER; AND

2. EXCEPT AS PROVIDED IN SUBPARAGRAPH ~~(II)~~ (III) OF THIS PARAGRAPH, RESPONSIBLE FOR PAYING THE FEE FOR ACTIVE ELECTRONIC MONITORING ESTABLISHED BY THE COUNTY.

(II) BEFORE ISSUING AN ORDER UNDER SUBPARAGRAPH (I)1 OF THIS PARAGRAPH, THE COURT MAY CONSIDER THE PREFERENCES OF THE VICTIM AND THE PARTIES.

(III) IF THE ~~COUNTY~~ COURT DETERMINES THAT A DEFENDANT CANNOT AFFORD TO PAY THE FEE ESTABLISHED IN SUBPARAGRAPH (I)2 OF THIS PARAGRAPH, THE ~~COUNTY~~ COURT MAY EXEMPT THE DEFENDANT WHOLLY OR PARTLY FROM THE FEE.

### Article – Family Law

4-509.

(a) A person who fails to comply with the relief granted in an interim protective order under § 4-504.1(c)(1), (2), (3), (4)(i), (7), or (8) of this subtitle, a temporary protective order under § 4-505(a)(2)(i), (ii), (iii), (iv), (v), or (viii) of this subtitle, or a final protective order under § 4-506(d)(1), (2), (3), (4), or (5), or (e) of this subtitle is guilty of a misdemeanor and on conviction is subject, for each offense, to:

(1) for a first offense, a fine not exceeding \$1,000 or imprisonment not exceeding 90 days or both; and

(2) for a second or subsequent offense, a fine not exceeding \$2,500 or imprisonment not exceeding 1 year or both.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before September 1, 2012, the Sheriff of Prince George's County and the administrative judge for the District Court in Prince George's County jointly shall submit a report to the General Assembly, in accordance with § 2-1246 of the State Government Article, that evaluates the global positioning satellite tracking system pilot program established by this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the abrogation of this Act at the end of September 30, 2012, as provided in Section 4 of this Act, may not be interpreted or applied to terminate the obligation of a defendant to comply with any order entered by a court under this Act on or before September 30, 2012.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010. It shall remain effective for a period of 2 years and, at the end of September 30, 2012, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

**Approved by the Governor, May 4, 2010.**

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## Chapter 430

**(House Bill 685)**

AN ACT concerning

### **Environment – Fluorescent and Compact Fluorescent Light Recycling – County Plans**

FOR the purpose of requiring a county recycling plan to address the collection and recycling of certain fluorescent lights; requiring a county to submit a revised recycling plan by a certain date; authorizing a county to utilize certain programs in a certain strategy; and generally relating to recycling fluorescent lights.

BY repealing and reenacting, with amendments,

Article – Environment

Section 9-1703

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

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

**Article – Environment**

9–1703.

(a) Each county shall submit a recycling plan to the Secretary for approval when the county submits its county plan to the Secretary in accordance with the provisions of § 9–505 of this title.

(b) In preparing the recycling plan as required in § 9–505 of this title, the county shall address:

- (1) Methods to meet the solid waste stream reduction;
- (2) The feasibility of source separation of the solid waste stream generated within the county;
- (3) The recyclable materials to be separated;
- (4) The strategy for the collection, processing, marketing, and disposition of recyclable materials, including the cost-effective use of recycling centers;
- (5) Methods of financing the recycling efforts proposed by the county;
- (6) Methods for the separate collection and composting of yard waste;
- (7) The feasibility of a system for the composting of mixed solid wastes;
- (8) The feasibility of a system for the collection and recycling of white goods;
- (9) The separate collection of other recyclable materials;
- (10) The strategy for the collection, processing, marketing, and disposition of recyclable materials from county public schools; [and]
- (11) THE STRATEGY FOR THE COLLECTION AND RECYCLING OF FLUORESCENT AND COMPACT FLUORESCENT LIGHTS THAT CONTAIN MERCURY; AND**

**[(11)] (12)** Any other alternative methods of recycling that will attain or exceed the solid waste stream reduction goals determined by the county.

(c) (1) In preparing the recycling plan as required under § 9–505 of this title, the county may address methods for the separate collection and recycling of covered electronic devices, including efforts by the county to establish partnerships with covered electronic device manufacturers, recyclers, retailers, or other local governments for the collection and recycling of covered electronic devices.

(2) If a county elects to address methods for the separate collection and recycling of covered electronic devices in its recycling plan, any reduction in the county's solid waste stream attributable to the implementation of the methods shall count towards the county's required reduction through recycling of the solid waste stream under § 9–505 of this title.

(d) A county that achieves a reduction of at least 5 percent in the volume of its waste through the utilization of 1 or more resource recovery facilities in operation as of January 1, 1988 shall be considered to have achieved a reduction by recycling of 5 percent of its solid waste stream.

(e) In preparing a recycling plan, a county may not calculate a tax or mandatory deposit on any beverage container that is enacted by a county or municipality to achieve the recycling goals required under § 9–505 of this title.

(f) For the purpose of determining weight, the Department may not preclude the use of portable weigh scales.

(g) A county shall revise its recycling plan by:

(1) October 1, 2010, to address the requirements of subsection (b)(10) of this section; AND

(2) **OCTOBER 1, 2011, TO ADDRESS THE REQUIREMENTS OF SUBSECTION (B)(11) OF THIS SECTION.**

*SECTION 2. AND BE IT FURTHER ENACTED, That a county may utilize recycling, exchange, and take-back programs voluntarily established by fluorescent and compact fluorescent light manufacturers or vendors in the county's strategy for the collection and recycling of fluorescent and compact fluorescent lighting required under § 9–1703(b)(11) of the Environment Article, as enacted by Section 1 of this Act.*

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

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**Chapter 431****(House Bill 1472)**

AN ACT concerning

**Hunting Wild Waterfowl – Dorchester, St. Mary's, Somerset, and Wicomico Counties**

FOR the purpose of altering the location in which a person may hunt wild waterfowl by certain methods in the waters of Dorchester, St. Mary's, Somerset, and Wicomico counties; decreasing the distance from shore that the Department of Natural Resources prescribes by regulation for the hunting of wild waterfowl by certain methods in the waters of Dorchester, St. Mary's, Somerset, and Wicomico counties; and generally relating to hunting wild waterfowl in the waters of Dorchester, St. Mary's, Somerset, and Wicomico counties.

BY repealing and reenacting, with amendments,  
Article – Natural Resources  
Section 10–604 through 10–606  
Annotated Code of Maryland  
(2007 Replacement Volume and 2009 Supplement)

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

**Article – Natural Resources**

10–604.

(a) A person may hunt wild waterfowl while standing in water on the natural bottom only in the waters of the Susquehanna Flats, the nontidal waters of the Potomac River, **THE WATERS OF TANGIER SOUND, FISHING BAY, MONIE BAY, MANOKIN RIVER, BIG ANNEMESSEX RIVER, POCOMOKE SOUND, AND KEDGES STRAITS IN THE WATERS OF DORCHESTER, SOMERSET, AND WICOMICO COUNTIES**, and in other waters of the State in areas and on days the Department prescribes by regulation.

(b) A person may hunt wild waterfowl while standing in water on the natural bottom at a licensed offshore stationary blind or blind site.

(c) A person hunting wild waterfowl while standing in water on the natural bottom shall remain at least 250 yards from all offshore stationary blinds or blind sites or another person hunting wild waterfowl offshore.

(d) (1) A person hunting wild waterfowl while standing in water on the natural bottom shall be at least 800 yards from shore including shore emerging at

mean low water except in the waters of the Potomac River, in the waters of the Susquehanna Flats, in the waters of Harford and Baltimore counties, **IN THE WATERS OF TANGIER SOUND, FISHING BAY, MONIE BAY, MANOKIN RIVER, BIG ANNEMESSEX RIVER, POCOMOKE SOUND, AND KEDGES STRAITS IN THE WATERS OF DORCHESTER, SOMERSET, AND WICOMICO COUNTIES**, or while hunting at a licensed stationary blind or blind site.

(2) A person hunting wild waterfowl while standing in water on the natural bottom shall be at least 400 yards from shore, including shore emerging at mean low water, in the following areas:

(i) The waters of the Susquehanna Flats;

(ii) The tidal waters of the Potomac River that the Department by regulation prescribes for hunting under subsection (a) of this section; [and]

(iii) The waters of Harford ~~and~~ Baltimore, AND ST. MARY'S counties that the Department by regulation prescribes for hunting under subsection (a) of this section; AND

**(IV) THE WATERS OF TANGIER SOUND, FISHING BAY, MONIE BAY, MANOKIN RIVER, BIG ANNEMESSEX RIVER, POCOMOKE SOUND, AND KEDGES STRAITS IN THE WATERS OF DORCHESTER, SOMERSET, AND WICOMICO COUNTIES THAT THE DEPARTMENT BY REGULATION PRESCRIBES FOR HUNTING UNDER SUBSECTION (A) OF THIS SECTION.**

(e) A person may not hunt wild waterfowl while standing in State waters on the natural bottom when the natural bottom is privately owned, unless the hunter has the written permission of the landowner.

(f) Except at a licensed stationary blind or blind site, a nonresident may not hunt wild waterfowl while standing in water on the natural bottom unless accompanied by a Maryland resident.

10-605.

(a) A person may hunt wild waterfowl from a boat that is drifting or being sculled, only in:

(1) The nontidal waters of the Potomac River, Conococheague Creek, and the Monocacy River;

(2) The Susquehanna Flats, Elk River, and that portion of the Sassafras River in Cecil County located west of 75 degrees 58 minutes 45 seconds;

(3) Chincoteague Bay, Sinepuxent Bay, Isle of Wight, Assawoman Bay, and their respective tributaries in Worcester County;

**(4) THE WATERS OF TANGIER SOUND, FISHING BAY, MONIE BAY, MANOKIN RIVER, BIG ANNEMESSEX RIVER, POCOMOKE SOUND, AND KEDGES STRAITS IN THE WATERS OF DORCHESTER, SOMERSET, AND WICOMICO COUNTIES; or**

**[(4)] (5)** Zones prescribed by the Department by regulation.

(b) While hunting wild waterfowl from a boat that is drifting or being sculled, a person shall remain at least 250 yards from all offshore stationary blinds or blind sites or another person hunting wild waterfowl offshore.

(c) (1) A person hunting wild waterfowl from a boat that is drifting or being sculled shall be at least 800 yards from shore including shore emerging at mean low water except in the waters of the Potomac River, in the waters of the Susquehanna Flats, in the waters of Harford ~~and~~, Baltimore, AND ST. MARY'S counties, **IN THE WATERS OF TANGIER SOUND, FISHING BAY, MONIE BAY, MANOKIN RIVER, BIG ANNEMESSEX RIVER, POCOMOKE SOUND, AND KEDGES STRAITS IN THE WATERS OF DORCHESTER, SOMERSET, AND WICOMICO COUNTIES**, in Conococheague Creek, and in the Monocacy River.

(2) A person hunting wild waterfowl from a boat that is drifting or being sculled shall be at least 400 yards from shore, including shore emerging at mean low water, in the following areas:

(i) The waters of the Susquehanna Flats;

(ii) The tidal waters of the Potomac River that the Department by regulation prescribes for hunting under subsection **[(a)(4)] (A)(5)** of this section; **[and]**

(iii) The waters of Harford ~~and~~, Baltimore, AND ST. MARY'S counties that the Department by regulation prescribes for hunting under subsection **[(a)(4)] (A)(5)** of this section; **AND**

**(IV) THE WATERS OF TANGIER SOUND, FISHING BAY, MONIE BAY, MANOKIN RIVER, BIG ANNEMESSEX RIVER, POCOMOKE SOUND, AND KEDGES STRAITS IN THE WATERS OF DORCHESTER, SOMERSET, AND WICOMICO COUNTIES THAT THE DEPARTMENT BY REGULATION PRESCRIBES FOR HUNTING UNDER SUBSECTION (A)(5) OF THIS SECTION.**

(d) A nonresident may not hunt wild waterfowl from a boat that is drifting or being sculled unless accompanied by a Maryland resident.

10-606.

(a) A person may hunt wild waterfowl from a boat that is anchored only in:

(1) The nontidal waters of the Potomac River;

(2) The waters of the Susquehanna Flats, Elk River, and that portion of the Sassafras River in Cecil County located west of 75 degrees 58 minutes 45 seconds;

(3) The waters of Chincoteague Bay, Sinepuxent Bay, Isle of Wight, Assawoman Bay, and their respective tributaries in Worcester County;

**(4) THE WATERS OF TANGIER SOUND, FISHING BAY, MONIE BAY, MANOKIN RIVER, BIG ANNEMESSEX RIVER, POCOMOKE SOUND, AND KEDGES STRAITS IN THE WATERS OF DORCHESTER, SOMERSET, AND WICOMICO COUNTIES; or**

**[(4)] (5) Zones prescribed by the Department by regulation.**

(b) A person may hunt wild waterfowl from a boat that is anchored at a licensed offshore stationary blind or blind site.

(c) A person hunting wild waterfowl from a boat that is anchored shall remain 250 yards from all offshore stationary blinds or blind sites or another person hunting wild waterfowl offshore.

(d) (1) A person hunting wild waterfowl from a boat that is anchored shall be at least 800 yards from shore including shore emerging at mean low water except in the waters of the Potomac River, in the waters of the Susquehanna Flats, in the waters of Harford and Baltimore counties, **IN THE WATERS OF TANGIER SOUND, FISHING BAY, MONIE BAY, MANOKIN RIVER, BIG ANNEMESSEX RIVER, POCOMOKE SOUND, AND KEDGES STRAITS IN THE WATERS OF DORCHESTER, SOMERSET, AND WICOMICO COUNTIES**, or unless anchored at a licensed offshore stationary blind or blind site.

(2) A person hunting wild waterfowl from a boat that is anchored shall be at least 400 yards from shore, including shore emerging at mean low water, in the following areas:

(i) The waters of the Susquehanna Flats;

(ii) The tidal waters of the Potomac River that the Department by regulation prescribes for hunting under subsection **[(a)(4)] (A)(5)** of this section; **[and]**

(iii) The waters of Harford ~~and~~, Baltimore, AND ST. MARY'S counties that the Department by regulation prescribes for hunting under subsection [(a)(4)] **(A)(5)** of this section; AND

**(IV) THE WATERS OF TANGIER SOUND, FISHING BAY, MONIE BAY, MANOKIN RIVER, BIG ANNEMESSEX RIVER, POCOMOKE SOUND, AND KEDGES STRAITS IN THE WATERS OF DORCHESTER, SOMERSET, AND WICOMICO COUNTIES THAT THE DEPARTMENT BY REGULATION PRESCRIBES FOR HUNTING UNDER SUBSECTION (A)(5) OF THIS SECTION.**

(e) Except at a licensed stationary blind or blind site, a nonresident may not hunt wild waterfowl from a boat that is anchored unless accompanied by a Maryland resident.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**

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## Chapter 432

**(House Bill 686)**

AN ACT concerning

### **St. Mary's County – Wild Waterfowl Hunting**

FOR the purpose of altering certain distances a person must be from shore when hunting wild waterfowl by certain methods in certain waters of St. Mary's County; and generally relating to hunting wild waterfowl in the waters of St. Mary's County.

BY repealing and reenacting, with amendments,  
 Article – Natural Resources  
 Section 10–604(d), 10–605(c), and 10–606(d)  
 Annotated Code of Maryland  
 (2007 Replacement Volume and 2009 Supplement)

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

### **Article – Natural Resources**

10-604.

(d) (1) ~~[(A) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A~~ person hunting wild waterfowl while standing in water on the natural bottom shall be at least 800 yards from shore including shore emerging at mean low water except in the waters of the Potomac River, in the waters of the Susquehanna Flats, in the waters of Harford [and], Baltimore, AND ST. MARY'S counties, or while hunting at a licensed stationary blind or blind site.

(2) A person hunting wild waterfowl while standing in water on the natural bottom shall be at least 400 yards from shore, including shore emerging at mean low water, in the following areas:

(i) The waters of the Susquehanna Flats;

(ii) The tidal waters of the Potomac River that the Department by regulation prescribes for hunting under subsection (a) of this section; and

(iii) The waters of Harford [and], Baltimore, AND ST. MARY'S counties that the Department by regulation prescribes for hunting under subsection (a) of this section.

~~(3) WITHIN THE BOUNDARIES OF A MUNICIPAL CORPORATION IN ST. MARY'S COUNTY, A PERSON HUNTING WILD WATERFOWL WHILE STANDING IN WATER ON THE NATURAL BOTTOM SHALL BE AT LEAST 800 YARDS FROM SHORE, INCLUDING SHORE EMERGING AT MEAN LOW WATER.~~

10-605.

(c) (1) ~~[(A) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A~~ person hunting wild waterfowl from a boat that is drifting or being sculled shall be at least 800 yards from shore including shore emerging at mean low water except in the waters of the Potomac River, in the waters of the Susquehanna Flats, in the waters of Harford [and], Baltimore, AND ST. MARY'S counties, in Conococheague Creek, and in the Monocacy River.

(2) A person hunting wild waterfowl from a boat that is drifting or being sculled shall be at least 400 yards from shore, including shore emerging at mean low water, in the following areas:

(i) The waters of the Susquehanna Flats;

(ii) The tidal waters of the Potomac River that the Department by regulation prescribes for hunting under subsection (a)(4) of this section; and

(iii) The waters of Harford [and], Baltimore, AND ST. MARY'S counties that the Department by regulation prescribes for hunting under subsection (a)(4) of this section.

~~(3) WITHIN THE BOUNDARIES OF A MUNICIPAL CORPORATION IN ST. MARY'S COUNTY, A PERSON HUNTING WILD WATERFOWL FROM A BOAT THAT IS DRIFTING OR BEING SCULLED SHALL BE AT LEAST 800 YARDS FROM SHORE, INCLUDING SHORE EMERGING AT MEAN LOW WATER.~~

10-606.

(d) (1) ~~[A] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,~~ A person hunting wild waterfowl from a boat that is anchored shall be at least 800 yards from shore including shore emerging at mean low water except in the waters of the Potomac River, in the waters of the Susquehanna Flats, in the waters of Harford [and], Baltimore, AND ST. MARY'S counties, or unless anchored at a licensed offshore stationary blind or blind site.

(2) A person hunting wild waterfowl from a boat that is anchored shall be at least 400 yards from shore, including shore emerging at mean low water, in the following areas:

(i) The waters of the Susquehanna Flats;

(ii) The tidal waters of the Potomac River that the Department by regulation prescribes for hunting under subsection (a)(4) of this section; and

(iii) The waters of Harford [and], Baltimore, AND ST. MARY'S counties that the Department by regulation prescribes for hunting under subsection (a)(4) of this section.

~~(3) WITHIN THE BOUNDARIES OF A MUNICIPAL CORPORATION IN ST. MARY'S COUNTY, A PERSON HUNTING WILD WATERFOWL FROM A BOAT THAT IS ANCHORED SHALL BE AT LEAST 800 YARDS FROM SHORE, INCLUDING SHORE EMERGING AT MEAN LOW WATER.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.

AN ACT concerning

**Garrett County – Volunteer Fire Departments and Rescue Squads –  
Emergency Services Board**

FOR the purpose of altering certain taxes on certain real property and personal property in Garrett County that are to be paid to certain volunteer fire departments; requiring the Board of County Commissioners of Garrett County to make certain payments to certain volunteer fire departments and rescue squads at certain times; providing that the amounts paid to volunteer fire departments in Garrett County shall be equivalent; requiring that certain funds received by certain volunteer fire departments and rescue squads in Garrett County be used for certain expenditures; requiring volunteer fire departments and rescue squads in Garrett County to file certain reports annually; authorizing the Board of County Commissioners of Garrett County to reserve the right to withhold certain funds from a fire department or rescue squad that fails to meet certain standards and policies under certain circumstances; providing that the Garrett County Emergency Services Board shall be the final step in the establishment of primary and secondary service areas for fire, rescue, and ambulance services in Garrett County and is responsible for final resolution of certain disputes; providing that the Emergency Services Board has certain jurisdiction regardless of whether a certain provider of fire, rescue, or ambulance service is a member of the Garrett County Volunteer Fire and Rescue Association, Inc.; establishing a Garrett County Emergency Services Board; providing for the membership and the chair of the Emergency Services Board; providing for the appointment of members and the terms of the members of the Emergency Services Board; stating the mission of the Emergency Services Board; requiring the Emergency Services Board to develop and recommend to the Board of County Commissioners certain policies and standard operating procedures; requiring certain policies and standard operating procedures to comply with certain State and federal agency established standards, policies, practices, and protocols; requiring the Emergency Services Board to consult with certain persons before adopting certain proposed policies and standard operating procedures; establishing certain duties of the Emergency Services Board; altering a certain definition; altering the amount of a certain tax on certain real property in Garrett County paid to rescue squads in Garrett County; and generally relating to fire and rescue services in Garrett County.

BY repealing and reenacting, with amendments,  
The Public Local Laws of Garrett County  
Section 32.01(A)  
Article 12 – Public Local Laws of Maryland  
(2005 Edition and November 2009 Supplement, as amended)  
(As enacted by Chapter 45 of the Acts of the General Assembly of 2007)

BY repealing and reenacting, with amendments,

The Public Local Laws of Garrett County  
 Section 32.01(B) and (C), 32.04, and 35.05  
 Article 12 – Public Local Laws of Maryland  
 (2005 Edition and November 2009 Supplement, as amended)

BY adding to

The Public Local Laws of Garrett County  
 Section 32.90  
 Article 12 – Public Local Laws of Maryland  
 (2005 Edition and November 2009 Supplement, as amended)

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

### Article 12 – Garrett County

32.01.

(A) The Board of County Commissioners of Garrett County is authorized and directed to levy annually a tax of [at least two cents (\$0.02) and no more than] **UP TO** four cents (\$0.04) per one hundred dollars (\$100.) of assessed value of real property in Garrett County other than operating real property of a public utility and [at least five cents (\$0.05) and no more than] **UP TO** ten cents (\$0.10) per one hundred dollars (\$100.) of assessed value of personal property and operating real property of a public utility, and said levy is to be paid to the volunteer fire departments existing now or organized in the future. **THE BOARD SHALL MAKE THE PAYMENTS TWICE A YEAR IN DECEMBER AND JUNE.** The amounts paid to [any] **EACH** volunteer fire department shall be [determined jointly by one (1) representative of each of said volunteer fire departments and the County Commissioners] **EQUIVALENT.**

(B) [All sums] **ANY COUNTY FUNDS** received by any volunteer fire department **UNDER THIS SECTION** shall be expended only for [the]:

(1) **THE** purchase, maintenance and repair of fire–fighting apparatus and equipment [and the];

(2) **THE** construction, maintenance or repair of [buildings] **FACILITIES AND GROUNDS** necessary for:

- A. [fire–fighting] **FIRE–FIGHTING** purposes;
- B. **HOSTING COMMUNITY EVENTS;**
- C. **PROVIDING EMERGENCY SHELTER; OR**

**D. ENHANCING FUND-RAISING OR OPERATIONS CAPABILITY;**

**(3) THE PROMOTION, RETENTION, OR RECRUITMENT OF MEMBERSHIP; AND**

**(4) OTHER SPECIAL EXPENDITURES, INCLUDING HARDSHIPS OR OTHER EXTENUATING CIRCUMSTANCES THAT HAVE:**

**A. THE PRIOR APPROVAL OF THE GARRETT COUNTY EMERGENCY SERVICES BOARD; AND**

**B. CONSIDERATION OF RECOMMENDATIONS FROM THE GARRETT COUNTY FIRE AND RESCUE ASSOCIATION.**

(C) [The County Commissioners shall pay over all sums required under this section not later than July 1 of each year.] Every volunteer fire department receiving any sum under this section shall file [an annual report] **ANNUALLY SIGNED COPIES OF FEDERAL FORM 990 AND FORM 990 SCHEDULE A** with the **BOARD OF** County Commissioners. **A VOLUNTEER FIRE DEPARTMENT MAY NOT FILE FEDERAL FORM 990 EZ WITH THE BOARD OF COUNTY COMMISSIONERS UNDER THIS SECTION. IF THE INTERNAL REVENUE SERVICE CHANGES, AMENDS, OR REPLACES FORM 990 AND FORM 990 SCHEDULE A WITH A REPORT THAT IS TO BE FILED ANNUALLY, A FULLY EXECUTED COPY OF THAT REPORT WITH ALL CORRESPONDING SCHEDULES SHALL BE FILED WITH THE BOARD OF COUNTY COMMISSIONERS.**

**(D) THE BOARD OF COUNTY COMMISSIONERS MAY RESERVE THE RIGHT TO WITHHOLD ANY OR ALL OF THE FUNDS FROM A FIRE DEPARTMENT THAT FAILS TO MEET ALL STANDARDS AND POLICIES RECOMMENDED BY THE GARRETT COUNTY EMERGENCY SERVICES BOARD.**

32.04.

(A) The Garrett County [Volunteer Fire and Rescue Association, Inc., is responsible for] **EMERGENCY SERVICES BOARD SHALL BE THE FINAL STEP IN** the establishment of primary and secondary service areas for fire, rescue and ambulance services in Garrett County and [for resolving any dispute] **SHALL BE RESPONSIBLE FOR FINAL RESOLUTION OF ANY DISPUTES** concerning service areas, mutual aid agreements, or communications. **PARTIES THAT MAY HAVE A DISPUTE SHALL FIRST SEEK RESOLUTION BY:**

**(1) MUTUAL AGREEMENT BETWEEN INDIVIDUAL COMPANIES; AND**

**(2) A REVIEW AND HEARING AS ESTABLISHED BY THE GARRETT COUNTY VOLUNTEER FIRE AND RESCUE ASSOCIATION, INC.**

(B) The Garrett County [Volunteer Fire and Rescue Association, Inc.] **EMERGENCY SERVICES BOARD** has jurisdiction under division (A) of this section regardless of whether a provider of the fire, rescue or ambulance service is a member of the **GARRETT COUNTY VOLUNTEER FIRE AND RESCUE Association, INC.**

**32.90.**

**(A) (1) THERE IS A GARRETT COUNTY EMERGENCY SERVICES BOARD ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS OF GARRETT COUNTY.**

**(2) THE EMERGENCY SERVICES BOARD CONSISTS OF THE FOLLOWING MEMBERS:**

**A. ONE REPRESENTATIVE FROM THE GARRETT COUNTY FIRE AND RESCUE ASSOCIATION, APPOINTED BY THE BOARD OF COUNTY COMMISSIONERS;**

**B. ONE REPRESENTATIVE FROM THE GARRETT COUNTY CHIEF'S COMMITTEE, APPOINTED BY THE BOARD OF COUNTY COMMISSIONERS;**

**C. ONE MEMBER RECOMMENDED BY THE SOUTHERN GARRETT RESCUE SQUAD, APPOINTED BY THE BOARD OF COUNTY COMMISSIONERS;**

**D. ONE MEMBER RECOMMENDED BY THE NORTHERN GARRETT RESCUE SQUAD, APPOINTED BY THE BOARD OF COUNTY COMMISSIONERS;**

**E. THE DIRECTOR OF PUBLIC SAFETY AND EMERGENCY MANAGEMENT; AND**

**F. THREE MEMBERS OF THE GENERAL PUBLIC, APPOINTED BY THE BOARD OF COUNTY COMMISSIONERS.**

**(3) A. THE BOARD OF COUNTY COMMISSIONERS SHALL APPOINT THE MEMBERS THAT REPRESENT THE GARRETT COUNTY FIRE AND RESCUE ASSOCIATION, THE GARRETT COUNTY CHIEF'S COMMITTEE, THE**

**SOUTHERN GARRETT RESCUE SQUAD, AND THE NORTHERN GARRETT RESCUE SQUAD FROM A LIST OF AT LEAST THREE NOMINATIONS FOR EACH POSITION.**

**B. THE BOARD OF COUNTY COMMISSIONERS MAY REJECT ANY NOMINATION FOR MEMBERSHIP.**

**(4) THE BOARD OF COUNTY COMMISSIONERS SHALL APPOINT ONE OF THE MEMBERS FROM THE GENERAL PUBLIC AS CHAIR.**

**(5) A. THE TERM OF A MEMBER IS 2 YEARS.**

**B. THE BOARD OF COUNTY COMMISSIONERS MAY REAPPOINT A MEMBER TO ONE OR MORE ADDITIONAL TERMS.**

**(B) THE MISSION OF THE EMERGENCY SERVICES BOARD IS TO PROMOTE THE EFFECTIVE DELIVERY AND THE HIGHEST QUALITY OF EMERGENCY FIRE AND EMS SERVICES TO THE CITIZENS AND VISITORS OF GARRETT COUNTY.**

**(C) (1) THE EMERGENCY SERVICES BOARD SHALL DEVELOP AND RECOMMEND TO THE BOARD OF COUNTY COMMISSIONERS POLICIES AND STANDARD OPERATING PROCEDURES FOR VOLUNTEER FIRE DEPARTMENTS AND RESCUE SQUADS IN THE COUNTY, INCLUDING MONITORING OF STANDARDS RELATING TO TRAINING, EQUIPMENT SAFETY, TESTING, AND FIT-TESTING.**

**(2) THE POLICIES AND STANDARD OPERATING PROCEDURES RECOMMENDED BY THE GARRETT COUNTY FIRE AND RESCUE ASSOCIATION TO THE EMERGENCY SERVICES BOARD AND ADOPTED BY THE EMERGENCY SERVICES BOARD SHALL COMPLY WITH ALL RELEVANT STATE AND FEDERAL AGENCY ESTABLISHED STANDARDS, POLICIES, PRACTICES, AND PROTOCOLS.**

**(3) BEFORE ADOPTING ANY PROPOSED POLICIES AND STANDARD OPERATING PROCEDURES, THE EMERGENCY SERVICES BOARD SHALL CONSULT WITH THE GARRETT COUNTY VOLUNTEER FIRE AND RESCUE ASSOCIATION, INC., AND THE EMERGENCY MEDICAL SERVICES COUNCIL.**

**(D) IN ADDITION TO DEVELOPING AND RECOMMENDING STANDARDS AND POLICIES, THE EMERGENCY SERVICES BOARD SHALL:**

**(1) OFFER ASSISTANCE IN OBTAINING GRANT FUNDING, GRANT PREPARATION, AND OTHERWISE PROVIDE DIRECTION AND SUPPORT FOR SOLUTIONS TO SPECIAL FUNDING NEEDS;**

(2) **EVALUATE STAFFING, DISPATCH, AND COMMUNICATIONS ISSUES AND RECOMMEND SOLUTIONS WITH INPUT REQUESTED BY THE GARRETT COUNTY VOLUNTEER FIRE AND RESCUE ASSOCIATION, INC.;**

(3) **IN CONJUNCTION WITH THE GARRETT COUNTY DEPARTMENT OF FINANCIAL SERVICES, ENSURE THAT MEMBERS OF THE GARRETT COUNTY VOLUNTEER FIRE AND RESCUE ASSOCIATION, INC., REMAIN IN COMPLIANCE WITH ALL NECESSARY FINANCIAL DISCLOSURES AND THE LENGTH OF SERVICE AWARD PROGRAM ELIGIBILITY; AND**

(4) **IN CONJUNCTION WITH THE MEDICAL ADVISOR FOR GARRETT COUNTY, PROVIDE OVERSIGHT OF THE QUALITY ASSURANCE AND IMPROVEMENT PROGRAMS AND ACTIVITIES OF THE GARRETT COUNTY MEDICAL REVIEW BOARD.**

35.05.

(A) In this section, rescue squad means a voluntary, nonprofit [rescue squad located in Garrett County] **ENTITY THAT PROVIDES PRE-HOSPITAL EMERGENCY SERVICES AND PATIENT TRANSPORT.**

(B) (1) The Board of County Commissioners of Garrett County shall appropriate and pay to rescue squads in the county a total amount per year [equal to not less than] **OF UP TO \$0.008** per hundred dollars on the assessable real property in Garrett County other than operating real property of a public utility and **UP TO \$0.02** per hundred dollars on the assessable personal property and operating real property of a public utility.

(2) The Board of County Commissioners of Garrett County shall make the payments [semiannually] **TWICE A YEAR** in [January] **DECEMBER** and June.

(3) The payments to each rescue squad shall be equivalent.

(C) A rescue squad shall use the funds for:

(1) The purchase, maintenance and repair of rescue apparatus and equipment; [or]

(2) [The maintenance and repair of buildings necessary for rescue squad operations] **THE CONSTRUCTION, MAINTENANCE, OR REPAIR OF FACILITIES AND GROUNDS NECESSARY FOR:**

**A. EMERGENCY MEDICAL SERVICE PURPOSES;**

**B. HOSTING COMMUNITY EVENTS;**

**C. PROVIDING EMERGENCY SHELTER; OR**

**D. ENHANCING FUND-RAISING OR OPERATIONS CAPABILITY;**

**(3) THE PROMOTION, RETENTION, OR RECRUITMENT OF MEMBERSHIP; OR**

**(4) OTHER SPECIAL EXPENDITURES, INCLUDING HARDSHIPS OR OTHER EXTENUATING CIRCUMSTANCES THAT HAVE:**

**A. THE PRIOR APPROVAL OF THE GARRETT COUNTY EMERGENCY SERVICES BOARD; AND**

**B. CONSIDERATION OF RECOMMENDATIONS FROM THE GARRETT COUNTY FIRE AND RESCUE ASSOCIATION.**

**(D) THE BOARD OF COUNTY COMMISSIONERS OF GARRETT COUNTY MAY RESERVE THE RIGHT TO WITHHOLD ANY OR ALL OF THE FUNDS FROM A RESCUE SQUAD THAT FAILS TO MEET ALL STANDARDS AND POLICIES RECOMMENDED BY THE GARRETT COUNTY EMERGENCY SERVICES BOARD TO THE BOARD OF COUNTY COMMISSIONERS.**

**[D)] (E) A rescue squad RECEIVING FUNDING UNDER THIS SECTION shall file annually [a report on the] SIGNED COPIES OF FEDERAL FORM 990 AND FORM 990 SCHEDULE A, INCLUDING receipt and disbursement of funds received under this chapter WITH THE BOARD OF COUNTY COMMISSIONERS. A RESCUE SQUAD MAY NOT FILE FEDERAL FORM 990 EZ WITH THE COUNTY COMMISSIONERS UNDER THIS SECTION. IF THE INTERNAL REVENUE SERVICE CHANGES, AMENDS, OR REPLACES FORM 990 AND FORM 990 SCHEDULE A WITH A REPORT THAT IS TO BE FILED ANNUALLY, A FULLY EXECUTED COPY OF THAT REPORT WITH ALL CORRESPONDING SCHEDULES SHALL BE FILED WITH THE COUNTY COMMISSIONERS.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

**Approved by the Governor, May 4, 2010.**

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