
By: Chairman, Judiciary Committee (Commission on Uniform State Laws)

Introduced and read first time: March 4, 1996

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Uniform Certification of Questions of Law Act**

3 FOR the purpose of adopting the revised Uniform Certification of Questions of Law Act;
4 repealing existing provisions relating to certification of questions of law; specifying
5 the process by which the Court of Appeals may certify a question of law to the
6 highest court of another jurisdiction; specifying the process by which the Court of
7 Appeals may answer a question of law certified to it by a court of another
8 jurisdiction; providing for the fees and costs of certification; providing for the
9 construction and severability of this Act; and generally relating to the certification
10 of questions of law.

11 BY repealing

12 Article - Courts and Judicial Proceedings
13 Section 12-601 through 12-609, inclusive
14 Annotated Code of Maryland
15 (1995 Replacement Volume and 1995 Supplement)

16 BY adding to

17 Article - Courts and Judicial Proceedings
18 Section 12-601 through 12-613, inclusive
19 Annotated Code of Maryland
20 (1995 Replacement Volume and 1995 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That Section(s) 12-601 through 12-609, inclusive, of Article - Courts and
23 Judicial Proceedings of the Annotated Code of Maryland be repealed.

24 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
25 read as follows:

26 **Article - Courts and Judicial Proceedings**

27 12-601. DEFINITIONS.

28 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANING
29 INDICATED.

2

1 (B) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF
2 COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, OR ANY TERRITORY OR
3 INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

4 (C) "TRIBE" MEANS A TRIBE, BAND, OR VILLAGE OF NATIVE AMERICANS
5 WHICH IS RECOGNIZED BY FEDERAL LAW OR FORMALLY ACKNOWLEDGED BY A
6 STATE.

7 12-602. POWER TO CERTIFY.

8 THE COURT OF APPEALS OF THIS STATE, ON THE MOTION OF A PARTY TO
9 PENDING LITIGATION OR ITS OWN MOTION, MAY CERTIFY A QUESTION OF LAW TO
10 THE HIGHEST COURT OF ANOTHER STATE OR OF A TRIBE IF:

11 (1) THE PENDING LITIGATION INVOLVES A QUESTION TO BE DECIDED
12 UNDER THE LAW OF THE OTHER JURISDICTION;

13 (2) THE ANSWER TO THE QUESTION MAY BE DETERMINATIVE OF AN
14 ISSUE IN THE PENDING LITIGATION; AND

15 (3) THE QUESTION IS ONE FOR WHICH AN ANSWER IS NOT PROVIDED
16 BY A CONTROLLING APPELLATE DECISION, CONSTITUTIONAL PROVISION, OR
17 STATUTE OF THE OTHER JURISDICTION.

18 12-603. POWER TO ANSWER.

19 THE COURT OF APPEALS OF THIS STATE MAY ANSWER A QUESTION OF LAW
20 CERTIFIED TO IT BY A COURT OF THE UNITED STATES OR BY AN APPELLATE COURT
21 OF ANOTHER STATE OR OF A TRIBE, IF THE ANSWER MAY BE DETERMINATIVE OF
22 AN ISSUE IN PENDING LITIGATION IN THE CERTIFYING COURT AND THERE IS NO
23 CONTROLLING APPELLATE DECISION, CONSTITUTIONAL PROVISION, OR STATUTE
24 OF THIS STATE.

25 12-604. POWER TO REFORMULATE QUESTION.

26 THE COURT OF APPEALS OF THIS STATE MAY REFORMULATE A QUESTION OF
27 LAW CERTIFIED TO IT.

28 12-605. CERTIFICATION ORDER; RECORD.

29 THE COURT CERTIFYING A QUESTION OF LAW TO THE COURT OF APPEALS OF
30 THIS STATE SHALL ISSUE A CERTIFICATION ORDER AND FORWARD IT TO THE
31 COURT OF APPEALS OF THIS STATE. BEFORE RESPONDING TO A CERTIFIED
32 QUESTION, THE COURT OF APPEALS OF THIS STATE MAY REQUIRE THE CERTIFYING
33 COURT TO DELIVER ALL OR PART OF ITS RECORD TO THE COURT OF APPEALS OF
34 THIS STATE.

35 12-606. CONTENTS OF CERTIFICATION ORDER.

36 (A) A CERTIFICATION ORDER MUST CONTAIN:

37 (1) THE QUESTION OF LAW TO BE ANSWERED;

38 (2) THE FACTS RELEVANT TO THE QUESTION, SHOWING FULLY THE
39 NATURE OF THE CONTROVERSY OUT OF WHICH THE QUESTION AROSE;

3

1 (3) A STATEMENT ACKNOWLEDGING THAT THE COURT OF APPEALS OF
2 THIS STATE, ACTING AS THE RECEIVING COURT, MAY REFORMULATE THE
3 QUESTION; AND

4 (4) THE NAMES AND ADDRESSES OF COUNSEL OF RECORD AND
5 PARTIES APPEARING WITHOUT COUNSEL.

6 (B) IF THE PARTIES CANNOT AGREE UPON A STATEMENT OF FACTS, THE
7 CERTIFYING COURT SHALL DETERMINE THE RELEVANT FACTS AND STATE THEM AS
8 A PART OF ITS CERTIFICATION ORDER.

9 12-607. NOTICE; RESPONSE.

10 THE COURT OF APPEALS OF THIS STATE, ACTING AS A RECEIVING COURT,
11 SHALL NOTIFY THE CERTIFYING COURT OF ACCEPTANCE OR REJECTION OF THE
12 QUESTION AND, IN ACCORDANCE WITH NOTIONS OF COMITY AND FAIRNESS,
13 RESPOND TO AN ACCEPTED CERTIFIED QUESTION AS SOON AS PRACTICABLE.

14 12-608. PROCEDURES.

15 (A) AFTER THE COURT OF APPEALS OF THIS STATE HAS ACCEPTED A
16 CERTIFIED QUESTION, PROCEEDINGS ARE GOVERNED BY THE MARYLAND RULES
17 OF PROCEDURE.

18 (B) PROCEDURES FOR CERTIFICATION FROM THIS STATE TO A RECEIVING
19 COURT ARE THOSE PROVIDED IN THE RULES AND STATUTES OF THE RECEIVING
20 FORUM.

21 12-609. OPINION.

22 THE COURT OF APPEALS OF THIS STATE SHALL STATE IN A WRITTEN OPINION
23 THE LAW ANSWERING THE CERTIFIED QUESTION AND SEND A COPY OF THE
24 OPINION TO THE CERTIFYING COURT, COUNSEL OF RECORD, AND PARTIES
25 APPEARING WITHOUT COUNSEL.

26 12-610. COST OF CERTIFICATION.

27 FEES AND COSTS ARE THE SAME AS IN CIVIL APPEALS DOCKETED BEFORE THE
28 COURT OF APPEALS OF THIS STATE AND MUST BE EQUALLY DIVIDED BETWEEN THE
29 PARTIES UNLESS OTHERWISE ORDERED BY THE CERTIFYING COURT.

30 12-611. SEVERABILITY.

31 IF ANY PROVISION OF THIS SUBTITLE OR ITS APPLICATION TO ANY PERSON OR
32 CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY DOES NOT AFFECT OTHER
33 PROVISIONS OR APPLICATIONS OF THIS SUBTITLE WHICH CAN BE GIVEN EFFECT
34 WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE
35 PROVISIONS OF THIS SUBTITLE ARE SEVERABLE.

36 12-612. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

37 THIS SUBTITLE SHALL BE APPLIED AND CONSTRUED TO EFFECTUATE ITS
38 GENERAL PURPOSE TO MAKE UNIFORM LAW WITH RESPECT TO THE SUBJECT OF
39 THE SUBTITLE AMONG STATES ENACTING IT.

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1 12-613. SHORT TITLE.

2 THIS SUBTITLE MAY BE CITED AS THE MARYLAND UNIFORM CERTIFICATION
3 OF QUESTIONS OF LAW ACT.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 1996.