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**By: Senator Hollinger**

Introduced and read first time: February 2, 1996

Assigned to: Economic and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Nursing - Nurse Aides - Certification**

3 FOR the purpose of requiring an individual to be certified as a nurse aide by the State  
4 Board of Nursing by a certain date before practicing as a nurse aide, using certain  
5 titles, and making certain representations; requiring the State Comptroller to  
6 distribute all fees received from the State Board of Nursing to the Board; requiring  
7 the State Board of Nursing to adopt certain regulations; establishing procedures for  
8 the certification of nurse aides and the issuance and renewal of nurse aide  
9 certificates; establishing grounds for the denial of certificates and the discipline of  
10 certificate holders; defining certain terms; providing for the effective dates of this  
11 Act; and generally relating to the certification of nurse aides by the State Board of  
12 Nursing.

13 BY repealing and reenacting, with amendments,  
14 Article - Health Occupations  
15 Section 8-206(d) and 8-317(a)  
16 Annotated Code of Maryland  
17 (1994 Replacement Volume and 1995 Supplement)

18 BY adding to  
19 Article - Health Occupations  
20 Section 8-6A-01 through 8-6A-12, inclusive, to be under the new subtitle "Subtitle  
21 6A. Certification of Nurse Aides"  
22 Annotated Code of Maryland  
23 (1994 Replacement Volume and 1995 Supplement)

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

26 **Article - Health Occupations**

27 8-206.

28 (d) (1) The Board shall pay all fees collected under the provisions of this title to  
29 the Comptroller of the State.

30 (2) The Comptroller shall distribute [:

2

1 (i) 20 percent of the fees received from the Board to the General  
2 Fund of the State; and

3 (ii) The balance of] the fees to the Board of Nursing.

4 8-317.

5 (a) Except as otherwise provided in the Administrative Procedure Act, before the  
6 Board takes any action under § 8-312, § 8-316, [or] § 8-404, OR § 8-6A-11 of this title, it  
7 shall give the person against whom the action is contemplated an opportunity for a  
8 hearing before the Board.

9 SUBTITLE 6A. CERTIFICATION OF NURSE AIDES.

10 8-6A-01.

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

13 (B) "APPROVED EDUCATION PROGRAM" MEANS A COURSE OF TRAINING  
14 CONDUCTED BY AN EDUCATIONAL OR A HEALTH CARE INSTITUTION THAT  
15 IMPLEMENTS THE BASIC NURSE AIDE CURRICULUM PRESCRIBED AND APPROVED  
16 BY THE BOARD.

17 (C) "BOARD" MEANS THE STATE BOARD OF NURSING.

18 (D) "CERTIFICATE" MEANS A CERTIFICATE ISSUED BY THE BOARD TO  
19 PRACTICE AS A NURSE AIDE IN THE STATE.

20 (E) "CERTIFIED NURSE AIDE" MEANS AN INDIVIDUAL WHO IS CERTIFIED BY  
21 THE BOARD TO PRACTICE AS A NURSE AIDE IN THE STATE.

22 (F) "PRACTICE AS A NURSE AIDE" MEANS THE PERFORMANCE OF NURSE  
23 FUNCTIONS THAT:

24 (1) REQUIRE EDUCATION, TRAINING, AND SKILLS; AND

25 (2) ARE PERFORMED UNDER THE SUPERVISION OF A REGISTERED  
26 NURSE OR LICENSED PRACTICAL NURSE.

27 8-6A-02.

28 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, ON OR AFTER  
29 OCTOBER 1, 1997, AN INDIVIDUAL SHALL BE CERTIFIED BY THE BOARD BEFORE THE  
30 INDIVIDUAL MAY PRACTICE AS A NURSE AIDE IN THE STATE.

31 (B) THIS SUBTITLE DOES NOT APPLY TO AN INDIVIDUAL WHO:

32 (1) PRACTICES A HEALTH OCCUPATION THAT THE INDIVIDUAL IS  
33 AUTHORIZED TO PRACTICE UNDER THIS ARTICLE;

34 (2) PROVIDES FOR THE GRATUITOUS CARE OF FRIENDS OR FAMILY  
35 MEMBERS;

3

1 (3) PROVIDES NURSING ASSISTANCE IN THE EVENT OF AN EMERGENCY;  
2 OR

3 (4) PERFORMS NURSING TASKS WHILE A NURSING STUDENT ENROLLED  
4 IN AN ACCREDITED NURSING PROGRAM WHILE PRACTICING UNDER THE DIRECT  
5 SUPERVISION OF QUALIFIED FACULTY OR PRECEPTORS.

6 8-6A-03.

7 AN INDIVIDUAL SHALL BE CERTIFIED AS A NURSE AIDE BY THE BOARD  
8 BEFORE THE INDIVIDUAL MAY:

9 (1) USE THE TITLE "CERTIFIED NURSE AIDE";

10 (2) USE THE INITIALS "C.N.A." AFTER THE NAME OF THE INDIVIDUAL;  
11 OR

12 (3) REPRESENT TO THE PUBLIC THAT THE INDIVIDUAL IS CERTIFIED AS  
13 A NURSE AIDE.

14 8-6A-04.

15 (A) (1) THE BOARD SHALL SET REASONABLE FEES FOR THE ISSUANCE AND  
16 RENEWAL OF CERTIFICATES AND OTHER SERVICES IT PROVIDES TO NURSE AIDES.

17 (2) THE FEES CHARGED SHALL BE SET TO PRODUCE FUNDS TO  
18 APPROXIMATE THE COST OF MAINTAINING THE CERTIFICATION PROGRAM AND  
19 THE OTHER SERVICES PROVIDED TO NURSE AIDES.

20 (B) (1) THE BOARD SHALL PAY ALL FEES COLLECTED UNDER THE  
21 PROVISIONS OF THIS SUBTITLE TO THE COMPTROLLER OF THE STATE.

22 (2) THE COMPTROLLER SHALL DISTRIBUTE ALL THE FEES TO THE  
23 STATE BOARD OF NURSING FUND ESTABLISHED UNDER § 8-206 OF THIS TITLE.

24 8-6A-05.

25 (A) (1) THE BOARD SHALL ADOPT REGULATIONS ESTABLISHING THE  
26 QUALIFICATIONS FOR CERTIFICATION AS A NURSE AIDE.

27 (B) TO QUALIFY FOR CERTIFICATION, AN APPLICANT SHALL MEET THE  
28 REQUIREMENTS SET BY THE BOARD.

29 (C) AN APPLICANT FOR A CERTIFICATE SHALL:

30 (1) SUBMIT AN APPLICATION TO THE BOARD ON THE FORM THAT THE  
31 BOARD REQUIRES;

32 (2) PROVIDE EVIDENCE, AS REQUIRED BY THE BOARD, OF SUCCESSFUL  
33 COMPLETION OF AN APPROVED EDUCATION PROGRAM;

34 (3) PAY TO THE BOARD AN APPLICATION FEE SET BY THE BOARD; AND

35 (4) PASS AN EXAMINATION APPROVED BY THE BOARD.

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1 8-6A-06.

2 EVERY APPLICANT FOR CERTIFICATION BY ENDORSEMENT SHALL:

3 (1) PAY THE REQUIRED APPLICATION FEE;

4 (2) SUBMIT THE INFORMATION REQUIRED BY THE BOARD IN THE  
5 MANNER AND FORM SPECIFIED BY THE BOARD; AND

6 (3) SUBMIT WRITTEN EVIDENCE THAT THE APPLICANT:

7 (I) IS CERTIFIED TO PRACTICE AS A NURSE AIDE BY ANOTHER  
8 STATE OR TERRITORY OF THE UNITED STATES WITH REQUIREMENTS THAT ARE  
9 ESSENTIALLY SIMILAR TO THE REQUIREMENTS FOR CERTIFICATION ESTABLISHED  
10 IN THIS ARTICLE AND THAT THE CERTIFICATION IS IN GOOD STANDING;

11 (II) HAS NOT COMMITTED ANY ACT OR OMISSION THAT WOULD BE  
12 GROUNDS FOR DISCIPLINE OR DENIAL OF CERTIFICATION UNDER THIS ARTICLE;

13 (III) HAS SUCCESSFULLY COMPLETED AN EDUCATION PROGRAM  
14 APPROVED BY THE BOARD OR A NURSE AIDE TRAINING PROGRAM THAT MEETS  
15 THE STANDARDS FOR EDUCATION PROGRAMS SPECIFIED IN THIS ARTICLE AND THE  
16 STANDARDS ADOPTED BY THE BOARD; AND

17 (IV) HAS NO RECORD OF ABUSE, NEGLIGENCE, OR  
18 MISAPPROPRIATION OF A RESIDENT'S PROPERTY OR ANY DISCIPLINARY ACTION  
19 TAKEN OR PENDING IN ANY OTHER STATE OR TERRITORY AGAINST THE  
20 CERTIFICATION OF THE NURSE AIDE.

21 8-6A-07.

22 (A) THE BOARD SHALL ISSUE A CERTIFICATE TO ANY APPLICANT WHO MEETS  
23 THE REQUIREMENTS OF THIS SUBTITLE.

24 (B) THE BOARD MAY ISSUE A CERTIFICATE TO REPLACE A LOST,  
25 DESTROYED, OR MUTILATED CERTIFICATE, IF THE CERTIFICATE HOLDER PAYS THE  
26 CERTIFICATE REPLACEMENT FEE SET BY THE BOARD.

27 8-6A-08.

28 (A) A CERTIFICATE EXPIRES ON THE 28TH DAY OF THE BIRTH MONTH OF THE  
29 NURSE AIDE, UNLESS THE CERTIFICATE IS RENEWED FOR A 1-YEAR TERM AS  
30 PROVIDED IN THIS SECTION.

31 (B) AT LEAST 1 MONTH BEFORE THE CERTIFICATE EXPIRES, THE BOARD  
32 SHALL SEND TO THE NURSE AIDE, BY FIRST-CLASS MAIL TO THE LAST KNOWN  
33 ADDRESS OF THE NURSE AIDE, A RENEWAL NOTICE THAT STATES:

34 (1) THE DATE ON WHICH THE CURRENT CERTIFICATE EXPIRES;

35 (2) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE  
36 RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE  
37 THE CERTIFICATE EXPIRES; AND

38 (3) THE AMOUNT OF THE RENEWAL FEE.

5

1 (C) BEFORE A CERTIFICATE EXPIRES, THE NURSE AIDE PERIODICALLY MAY  
2 RENEW IT FOR AN ADDITIONAL TERM, IF THE LICENSEE:

3 (1) OTHERWISE IS ENTITLED TO BE CERTIFIED;

4 (2) SUBMITS TO THE BOARD A RENEWAL APPLICATION ON THE FORM  
5 THAT THE BOARD REQUIRES;

6 (3) PAYS TO THE BOARD A RENEWAL FEE SET BY THE BOARD; AND

7 (4) PROVIDES SATISFACTORY EVIDENCE OF COMPLETION OF:

8 (I) 1,000 HOURS OF ACTIVE NURSE AIDE PRACTICE WITHIN THE  
9 5-YEAR PERIOD IMMEDIATELY PRECEDING THE DATE OF RENEWAL;

10 (II) A COURSE OF INSTRUCTION, COMMONLY KNOWN AS A  
11 REFRESHER COURSE, APPROVED BY THE BOARD; OR

12 (III) A PRECEPTORSHIP PROGRAM PROVIDED BY AN EMPLOYER  
13 AND APPROVED BY THE BOARD.

14 (D) (1) EACH NURSE AIDE SHALL NOTIFY THE BOARD IN WRITING OF ANY  
15 CHANGE IN THE NAME OR ADDRESS OF THE NURSE AIDE WITHIN 60 DAYS AFTER  
16 THE CHANGE OCCURRED.

17 (2) IF A NURSE AIDE FAILS TO NOTIFY THE BOARD WITHIN THE TIME  
18 REQUIRED UNDER THIS SUBSECTION, SUBJECT TO THE HEARING PROVISIONS OF §  
19 8-317 OF THIS SUBTITLE, THE BOARD MAY IMPOSE AN ADMINISTRATIVE PENALTY OF  
20 \$1,000.

21 (E) THE BOARD SHALL RENEW THE CERTIFICATE OF EACH NURSE AIDE WHO  
22 MEETS THE REQUIREMENTS OF THIS SECTION.

23 8-6A-09.

24 (A) THE BOARD MAY IMPOSE A CIVIL FINE NOT EXCEEDING \$1,000 ON A  
25 NURSE AIDE WHO FAILS TO RENEW A CERTIFICATE WITHIN 30 DAYS AFTER ITS  
26 EXPIRATION DATE AND PRACTICES AS A NURSE AIDE DURING THE PERIOD OF  
27 EXPIRATION.

28 (B) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS SECTION  
29 TO THE GENERAL FUND OF THE STATE.

30 8-6A-10.

31 (A) THE BOARD SHALL PLACE A CERTIFICATE ON INACTIVE STATUS, IF THE  
32 CERTIFICATE HOLDER:

33 (1) HAS NOT SATISFACTORILY COMPLETED 1,000 HOURS OF ACTIVE  
34 NURSE AIDE PRACTICE WITHIN THE 5-YEAR PERIOD IMMEDIATELY PRECEDING THE  
35 DATE OF ANTICIPATED RENEWAL; OR

36 (2) CHOOSES INACTIVE STATUS.

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1 (B) IF A NURSE AIDE ON INACTIVE STATUS APPLIES FOR A CERTIFICATE TO  
2 PRACTICE AS A NURSE AIDE AND MEETS THE RENEWAL REQUIREMENTS OF §  
3 8-6A-08 OF THIS SUBTITLE, THE BOARD SHALL:

4 (1) REMOVE THE NURSE AIDE FROM INACTIVE STATUS;

5 (2) VOID THE NURSE AIDE'S INACTIVE STATUS REGISTRATION  
6 CERTIFICATE; AND

7 (3) RENEW THE NURSE AIDE CERTIFICATE TO PRACTICE AS A NURSE  
8 AIDE IN THE STATE.

9 (C) A NURSE AIDE ON INACTIVE STATUS MAY NOT USE THE TITLE  
10 "CERTIFIED NURSE AIDE", "NURSE AIDE", OR THE ABBREVIATION "C.N.A.".

11 8-6A-11.

12 (A) SUBJECT TO THE HEARING PROVISIONS OF § 8-317 OF THIS TITLE, THE  
13 BOARD MAY DENY A CERTIFICATE TO ANY APPLICANT, REPRIMAND ANY  
14 CERTIFICATE HOLDER, PLACE ANY CERTIFICATE HOLDER ON PROBATION, OR  
15 SUSPEND OR REVOKE THE CERTIFICATE OF A CERTIFICATE HOLDER, IF THE  
16 APPLICANT OR CERTIFICATE HOLDER:

17 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO  
18 OBTAIN A CERTIFICATE FOR THE APPLICANT OR FOR ANOTHER;

19 (2) FRAUDULENTLY OR DECEPTIVELY USES A CERTIFICATE;

20 (3) IS DISCIPLINED BY A LICENSING OR DISCIPLINARY AUTHORITY IN  
21 THIS STATE OR IN ANY OTHER STATE OR COUNTRY OR CONVICTED OR DISCIPLINED  
22 BY A COURT IN THIS STATE OR IN ANY OTHER STATE OR COUNTRY FOR AN ACT  
23 THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THE BOARD'S  
24 DISCIPLINARY STATUTES;

25 (4) IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE TO A  
26 FELONY OR TO A CRIME INVOLVING MORAL TURPITUDE, WHETHER OR NOT ANY  
27 APPEAL OR OTHER PROCEEDING IS PENDING TO HAVE THE CONVICTION OR PLEA  
28 SET ASIDE;

29 (5) FILES A FALSE REPORT OR RECORD OF AN INDIVIDUAL UNDER THE  
30 CERTIFICATE HOLDER'S CARE;

31 (6) GIVES ANY FALSE OR MISLEADING INFORMATION ABOUT A  
32 MATERIAL MATTER IN AN EMPLOYMENT APPLICATION;

33 (7) FAILS TO FILE OR RECORD ANY HEALTH RECORD THAT IS  
34 REQUIRED BY LAW;

35 (8) INDUCES ANOTHER PERSON TO FILE OR RECORD ANY HEALTH  
36 RECORD THAT IS REQUIRED BY LAW;

37 (9) HAS NEGLIGENTLY OR WILLFULLY VIOLATED ANY ORDER, RULE,  
38 OR REGULATION OF THE BOARD PERTAINING TO PRACTICE OR CERTIFICATION AS  
39 A NURSE AIDE;

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1 (10) PROVIDES SERVICES AS A NURSE AIDE WHILE:

2 (I) UNDER THE INFLUENCE OF ALCOHOL; OR

3 (II) USING ANY NARCOTIC OR CONTROLLED DANGEROUS  
4 SUBSTANCE, AS DEFINED IN ARTICLE 27 OF THE CODE, OR OTHER DRUG THAT IS IN  
5 EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL INDICATION;

6 (11) IS HABITUALLY INTOXICATED;

7 (12) IS ADDICTED TO, OR HABITUALLY ABUSES, ANY NARCOTIC OR  
8 CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN ARTICLE 27 OF THE CODE;

9 (13) HAS ACTED IN A MANNER INCONSISTENT WITH THE HEALTH OR  
10 SAFETY OF A PERSON UNDER THE APPLICANT OR CERTIFICATE HOLDER'S CARE;

11 (14) HAS PRACTICED AS A NURSE AIDE IN A MANNER WHICH FAILS TO  
12 MEET GENERALLY ACCEPTED STANDARDS FOR THE PRACTICE OF A NURSE AIDE;

13 (15) HAS ABUSED, NEGLECTED, OR OTHERWISE HARMED A PERSON  
14 UNDER THE APPLICANT OR CERTIFICATE HOLDER'S CARE;

15 (16) HAS A PHYSICAL OR MENTAL DISABILITY WHICH RENDERS THE  
16 APPLICANT OR CERTIFICATE HOLDER UNABLE TO PRACTICE AS A CERTIFIED  
17 NURSE AIDE WITH REASONABLE SKILL AND SAFETY TO THE PATIENTS AND WHICH  
18 MAY ENDANGER THE HEALTH OR SAFETY OF PERSONS UNDER THE CARE OF THE  
19 APPLICANT OR CERTIFICATE HOLDER;

20 (17) HAS VIOLATED THE CONFIDENTIALITY OF INFORMATION OR  
21 KNOWLEDGE AS PRESCRIBED BY LAW CONCERNING ANY PATIENT;

22 (18) HAS MISAPPROPRIATED PATIENT OR FACILITY PROPERTY;

23 (19) PERFORMS NURSE AIDE FUNCTIONS INCOMPETENTLY;

24 (20) HAS VIOLATED ANY PROVISION OF THIS ARTICLE OR HAS AIDED OR  
25 KNOWINGLY PERMITTED ANY PERSON TO VIOLATE ANY PROVISION OF THIS  
26 ARTICLE;

27 (21) SUBMITS A FALSE STATEMENT TO COLLECT A FEE;

28 (22) REFUSES, WITHHOLDS FROM, DENIES, OR DISCRIMINATES AGAINST  
29 AN INDIVIDUAL WITH REGARD TO THE PROVISION OF PROFESSIONAL SERVICES  
30 FOR WHICH THE APPLICANT OR CERTIFICATE HOLDER IS CERTIFIED AND  
31 QUALIFIED TO RENDER BECAUSE THE INDIVIDUAL IS HIV POSITIVE;

32 (23) EXCEPT IN AN EMERGENCY LIFE-THREATENING SITUATION WHERE  
33 IT IS NOT FEASIBLE OR PRACTICABLE, FAILS TO COMPLY WITH THE CENTERS FOR  
34 DISEASE CONTROL'S GUIDELINES ON UNIVERSAL PRECAUTIONS;

35 (24) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION  
36 CONDUCTED BY THE BOARD;

1 (25) FAILS TO COMPLY WITH INSTRUCTIONS AND DIRECTIONS OF THE  
2 SUPERVISING REGISTERED NURSE OR LICENSED PRACTICAL NURSE;

3 (26) AFTER FAILING TO RENEW A CERTIFICATE, COMMITS ANY ACT  
4 THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THIS SECTION; OR

5 (27) PRACTICES AS A NURSE AIDE BEFORE OBTAINING OR RENEWING  
6 THE CERTIFICATE, INCLUDING ANY TIME PERIOD WHEN THE CERTIFICATE HAS  
7 LAPSED.

8 (B) IF, AFTER A HEARING UNDER § 8-317 OF THIS TITLE, THE BOARD FINDS  
9 THAT THERE ARE GROUNDS UNDER SUBSECTION (A) OF THIS SECTION TO SUSPEND  
10 OR REVOKE A CERTIFICATE TO PRACTICE AS A NURSE AIDE, TO REPRIMAND A  
11 CERTIFICATE HOLDER, OR PLACE A CERTIFICATE HOLDER ON PROBATION, THE  
12 BOARD MAY IMPOSE A PENALTY NOT EXCEEDING \$5,000 INSTEAD OF OR IN  
13 ADDITION TO SUSPENDING OR REVOKING THE CERTIFICATE, REPRIMANDING THE  
14 CERTIFICATE HOLDER, OR PLACING THE CERTIFICATE HOLDER ON PROBATION.

15 (C) (1) AN INDIVIDUAL WHOSE CERTIFICATE HAS BEEN SUSPENDED OR  
16 REVOKED BY THE BOARD SHALL RETURN THE CERTIFICATE TO THE BOARD.

17 (2) IF THE SUSPENDED OR REVOKED CERTIFICATE HAS BEEN LOST, THE  
18 INDIVIDUAL SHALL FILE WITH THE BOARD A VERIFIED STATEMENT TO THAT  
19 EFFECT.

20 (D) THE BOARD SHALL FILE A NOTICE FOR PUBLICATION IN THE EARLIEST  
21 PUBLICATION OF THE MARYLAND REGISTER OF EACH REVOCATION OR  
22 SUSPENSION OF A CERTIFICATE UNDER THIS SECTION WITHIN 24 HOURS OF THE  
23 REVOCATION OR SUSPENSION.

24 8-6A-12.

25 (A) UNLESS THE BOARD AGREES TO ACCEPT THE SURRENDER OF A  
26 CERTIFICATE, A NURSE AIDE MAY NOT SURRENDER THE CERTIFICATE NOR MAY  
27 THE CERTIFICATE LAPSE BY OPERATION OF LAW WHILE THE CERTIFICATE HOLDER  
28 IS UNDER INVESTIGATION OR WHILE CHARGES ARE PENDING AGAINST THE NURSE  
29 AIDE.

30 (B) THE BOARD MAY SET CONDITIONS ON ITS AGREEMENT WITH THE NURSE  
31 AIDE UNDER INVESTIGATION OR AGAINST WHOM CHARGES ARE PENDING TO  
32 ACCEPT SURRENDER OF THE CERTIFICATE.

33 SECTION 2. AND BE IT FURTHER ENACTED, That the changes to Section  
34 8-206(d) of the Health Occupations Article as enacted by this Act shall take effect July 1,  
35 1997.

36 SECTION 3. AND BE IT FURTHER ENACTED, That, except as provided in  
37 Section 2 of this Act, this Act shall take effect October 1, 1996.