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**By: Commerce and Government Matters Committee**

Introduced and read first time: January 10, 1997

Assigned to: Commerce and Government Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Executive Orders - Procedural Requirements**

3 FOR the purpose of requiring that an executive order contain a certain reference  
4 pertaining to legal authority; requiring that certain executive orders be submitted  
5 for publication in the Maryland Register in a prescribed time period; requiring that  
6 certain proposed executive orders be submitted to the Joint Committee on  
7 Administrative, Executive, and Legislative Review and to the Attorney General for  
8 specified purposes; requiring the Attorney General to review a proposed executive  
9 order within a prescribed time period; providing that an executive order may not be  
10 given effect under certain circumstances; modifying requirements pertaining to  
11 publication of executive orders in the Maryland Register; and generally relating to  
12 requirements and procedures governing the issuance of executive orders.

13 BY repealing and reenacting, without amendments,  
14 Article - State Government  
15 Section 3-401  
16 Annotated Code of Maryland  
17 (1995 Replacement Volume and 1996 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Article - State Government  
20 Section 3-402 through 3-404 and 7-206  
21 Annotated Code of Maryland  
22 (1995 Replacement Volume and 1996 Supplement)

23 BY adding to  
24 Article - State Government  
25 Section 3-403.1  
26 Annotated Code of Maryland  
27 (1995 Replacement Volume and 1996 Supplement)

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

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1 **Article - State Government**

2 3-401.

3 In this subtitle, "executive order" means an order or an amendment or rescission of  
4 an order that, over the signature of the Governor:

5 (1) proclaims or ends a state of emergency or exercises the authority of the  
6 Governor during the emergency, under Article 41, § 2-101 of the Code;

7 (2) adopts guidelines, rules of conduct, or rules of procedure for:

8 (i) State employees;

9 (ii) units of the State government; or

10 (iii) persons who are under the jurisdiction of those employees or units  
11 or who deal with them;

12 (3) establishes a unit, including an advisory unit, study unit, or task force; or

13 (4) changes the organization of the Executive Branch of the State  
14 government.

15 3-402.

16 (A) AN EXECUTIVE ORDER IS NOT EFFECTIVE UNLESS IT CONTAINS A  
17 CITATION OF THE SPECIFIC CONSTITUTIONAL OR STATUTORY AUTHORITY FOR THE  
18 EXECUTIVE ORDER.

19 (B) An executive order that amends another executive order shall show each  
20 addition or deletion in the manner shown in a bill in the General Assembly.

21 3-403.

22 [An] SUBJECT TO § 3-403.1 OF THIS SUBTITLE, AN executive order has the  
23 effective date set in the executive order.

24 3-403.1.

25 (A) THIS SECTION DOES NOT APPLY TO AN EXECUTIVE ORDER ISSUED  
26 UNDER:

27 (1) ARTICLE 16, § 6A OR § 6D OF THE CODE;

28 (2) ARTICLE 41, § 2-101 OR § 10-807 OF THE CODE;

29 (3) § 2-105 OF THE ENVIRONMENT ARTICLE; OR

30 (4) ANY PROVISION OF LAW THAT OTHERWISE REQUIRES SUBMISSION  
31 OF THE EXECUTIVE ORDER TO THE GENERAL ASSEMBLY OR TO A LEGISLATIVE  
32 COMMITTEE.

33 (B) (1) AT LEAST 21 DAYS BEFORE FINAL ISSUANCE OF AN EXECUTIVE  
34 ORDER, THE GOVERNOR SHALL SUBMIT THE PROPOSED ORDER TO THE

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1 ADMINISTRATOR OF THE DIVISION OF STATE DOCUMENTS FOR PUBLICATION IN  
2 THE MARYLAND REGISTER.

3 (2) ON OR BEFORE THE DAY THAT THE PROPOSED EXECUTIVE ORDER  
4 IS SUBMITTED TO THE ADMINISTRATOR, THE GOVERNOR SHALL SUBMIT THE  
5 PROPOSED EXECUTIVE ORDER TO:

6 (I) THE ATTORNEY GENERAL FOR REVIEW AS TO ITS LEGALITY;  
7 AND

8 (II) THE JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE,  
9 AND LEGISLATIVE REVIEW FOR REVIEW AND COMMENT.

10 (C) (1) THE ATTORNEY GENERAL SHALL REVIEW A PROPOSED EXECUTIVE  
11 ORDER WITHIN 7 DAYS OF ITS SUBMISSION.

12 (2) IF THE ATTORNEY GENERAL DETERMINES THAT THE CITED  
13 AUTHORITY DOES NOT PROVIDE ADEQUATE AUTHORITY FOR ISSUANCE OF THE  
14 EXECUTIVE ORDER, THE EXECUTIVE ORDER MAY NOT BE GIVEN EFFECT.

15 3-404.

16 (a) Upon FINAL issuance of an executive order, the Governor shall deliver the  
17 original or a certified copy of it to the Secretary of State.

18 (b) The Secretary of State shall:

19 (1) index the executive orders that the Governor delivers under this section;

20 (2) keep each executive order during the term of office of the Governor who  
21 delivered the executive order, including a consecutive term; and

22 (3) then deliver the executive order to the State Archives.

23 7-206.

24 (a) An issue of the Register shall contain:

25 (1) on the first page:

26 (i) the closing date and hour of the issue; and

27 (ii) the issue date, which shall be the date of deposit in the United  
28 States mail and shall appear prominently;

29 (2) the text of each of the following documents that has been submitted to  
30 the Division before the closing date and hour and has not been published previously:

31 (i) during each session of the General Assembly:

32 1. a synopsis of each bill that is introduced; and

33 2. a synopsis of each bill that is enacted;

34 (ii) each proposed rule of court that the Chief Judge of the Court of  
35 Appeals directs to be published;

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1 (iii) each rule of court that the Court of Appeals adopts or permits to  
2 be adopted;

3 (iv) the hearing calendar of the Court of Appeals;

4 (v) each administrative order or memorandum of the Chief Judge of  
5 the Court of Appeals or of the Administrative Office of the Courts that the Chief Judge  
6 directs to be published;

7 (vi) the hearing calendar of the Court of Special Appeals;

8 (vii) each administrative regulation that the Chief Judge of the District  
9 Court adopts;

10 (viii) EACH PROPOSED EXECUTIVE ORDER SUBMITTED BY THE  
11 GOVERNOR UNDER § 3-403.1 OF THIS ARTICLE;

12 (IX) SUBJECT TO SUBSECTION (B) OF THIS SECTION, each executive  
13 order;

14 [(ix)] (X) each designation of an official State agency under a federal  
15 program;

16 [(x)] (XI) except for notaries public and special police, a list of  
17 gubernatorial appointments that states:

18 1. the office;

19 2. the name of the appointee;

20 3. the county where the appointee resides;

21 4. the effective date of appointment;

22 5. the term of office; and

23 6. the salary;

24 [(xi)] (XII) for a proposed regulation:

25 1. the notice of the proposed adoption of the regulation; and

26 2. the text of the proposed regulation;

27 [(xii)] (XIII) each notice of a public hearing that a unit issues;

28 [(xiii)] (XIV) unless otherwise exempted, each other document that is  
29 required by law to be published in the Code of Maryland Regulations;

30 [(xiv)] (XV) each other document that is required to be published in the  
31 Register; and

32 [(xv)] (XVI) each notice or other document issued by an agency of a  
33 county or municipal government that the Committee permits to be published in the  
34 Register; and

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1 [(xvi)] (XVII) unless otherwise privileged, each other document that the  
2 Committee permits to be published in the Register;

3 (3) a table of contents; and

4 (4) an index to each title of the Code of Maryland Regulations that a  
5 document in the issue affects.

6 (b) IF THE TEXT OF A FINAL EXECUTIVE ORDER PREVIOUSLY PUBLISHED  
7 UNDER § 3-403.1 OF THIS ARTICLE IS ADOPTED WITHOUT ANY CHANGE, THE  
8 REGISTER MAY INCLUDE A NOTICE THAT:

9 (1) STATES THAT THE PROPOSED ORDER IS ISSUED AS PROPOSED; AND

10 (2) CITE THE DATE OF THE REGISTER IN WHICH THE PROPOSED  
11 EXECUTIVE ORDER APPEARED.

12 (C) (1) Each issue of the Register shall contain a certification of the  
13 Administrator that the issue contains all of the documents that have been submitted to  
14 the Division as of the closing date and hour of the issue.

15 (2) The certification of the Administrator in the Register is conclusive  
16 evidence of this fact.

17 [(c)] (D) (1) If the Committee permits a unit or an agency of a county or  
18 municipal government to publish a document in the Register and publication otherwise  
19 would not be required, the Committee may require the unit or agency to reimburse the  
20 Division for the cost of the publication.

21 (2) The Division shall bill for and collect the reimbursement.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 1997.