

HOUSE BILL 9

Unofficial Copy  
C8

2001 Regular Session  
(11r1186)

**ENROLLED BILL**

-- Economic Matters/Finance and Budget and Taxation --

Introduced by **Delegates Taylor, Dewberry, Hurson, Busch, Doory, Harrison, Hixson, Howard, Kopp, Menes, Montague, Owings, Vallario, and Wood Wood, Barkley, Barve, Bozman, Brown, Burns, Cane, Cole, D'Amato, DeCarlo, Dembrow, Donoghue, Finifter, Frush, Giannetti, Gladden, Goldwater, Griffith, Harrison, Hecht, Heller, Hill, Hubers, James, A. Jones, V. Jones, Kirk, Krysiak, Love, McClenahan, Mitchell, Moe, Nathan-Pulliam, Patterson, Pitkin, Riley, Rosso, Rudolph, Shriver, Swain, Turner, and Zirkin**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2  
3

**Department of Tourism**  
**Maryland Tourism Development Board and Fund**

4 FOR the purpose of ~~creating the Department of Tourism as a principal department of~~  
5 ~~State government; transferring and reassigning certain duties, responsibilities,~~  
6 ~~authority, functions, and units of the Department of Business and Economic~~  
7 ~~Development and the Department of Housing and Community Development to~~  
8 ~~the Department of Tourism; providing for the appointment of the Secretary,~~  
9 ~~deputy secretary, and the heads of certain units of the Department and for the~~  
10 ~~terms, duties, responsibilities, authority, and functions of those individuals;~~

1 increasing the membership of the Maryland Tourism Development Board with  
 2 respect to the private sector business community appointments of the President  
 3 of the Senate and the Speaker of the House of Delegates to the Board; providing  
 4 for specific funding levels for the Maryland Tourism Development Board Fund  
 5 for certain fiscal years; requiring the Board to report to certain committees by a  
 6 certain date on certain activities and recommendations; and generally relating to  
 7 the Maryland Tourism Development Board and Fund. ~~abolishing the Advisory~~  
 8 ~~Committee on Tourism in the Department of Business and Economic~~  
 9 ~~Development; increasing the membership of the Heritage Areas Authority;~~  
 10 ~~defining certain terms; revising certain definitions; making clarifying and~~  
 11 ~~stylistic changes; providing for a delayed effective date; specifying that the~~  
 12 ~~publisher of the Annotated Code of Maryland, in consultation with the~~  
 13 ~~Department of Legislative Services, shall correct agency names and titles in the~~  
 14 ~~Code to conform to the changes made by this Act; and generally relating to the~~  
 15 ~~Department of Tourism and the transfer of certain State units to create the~~  
 16 ~~Department of Tourism.~~

17 BY repealing and reenacting, without amendments,  
 18 Article 83A - Department of Business and Economic Development  
 19 Section ~~4-209~~ 4-201  
 20 Annotated Code of Maryland  
 21 (1998 Replacement Volume and 2000 Supplement)

22 BY repealing and reenacting, with amendments,  
 23 Article 83A - Department of Business and Economic Development  
 24 Section 4-203 and 4-208  
 25 Annotated Code of Maryland  
 26 (1998 Replacement Volume and 2000 Supplement)

27 ~~BY transferring~~  
 28 ~~Article 83A - Department of Business and Economic Development~~  
 29 ~~Section 4-101 through 4-105, inclusive, and the subtitle "Subtitle 1. Division~~  
 30 ~~Established"; 4-201 through 4-208, inclusive, and the subtitle "Subtitle 2.~~  
 31 ~~Maryland Tourism Development Board and Advisory Committee on~~  
 32 ~~Tourism"; 4-301 and the subtitle "Subtitle 3. Maryland Lower Eastern~~  
 33 ~~Shore Tourism Center"; 4-401 through 4-404, inclusive, and the subtitle~~  
 34 ~~"Subtitle 4. Maryland Film Office"; 4-501 and the subtitle "Subtitle 5. Film~~  
 35 ~~Production Activity Tax Exemptions"; 4-601 through 4-609, inclusive, and~~  
 36 ~~the subtitle "Subtitle 6. Maryland State Arts Council"; and the title "Title~~  
 37 ~~4. Division of Tourism, Film, and the Arts", respectively~~  
 38 ~~Annotated Code of Maryland~~  
 39 ~~(1998 Replacement Volume and 2000 Supplement)~~  
 40 ~~to be~~  
 41 ~~Article 83D - Department of Tourism~~  
 42 ~~Section 2-102 through 2-106, inclusive, and the subtitle "Subtitle 1. Division~~  
 43 ~~Established"; 2-201 through 2-208, inclusive, and the subtitle "Subtitle 2.~~

1 Maryland Tourism Development Board"; 3-301 and the subtitle "Subtitle  
 2 3. Maryland Lower Eastern Shore Tourism Center"; 2-402 through 2-405,  
 3 inclusive, and the subtitle "Subtitle 4. Maryland Film Office"; 2-501 and  
 4 the subtitle "Subtitle 5. Film Production Activity Tax Exemptions"; 2-601  
 5 through 2-609, inclusive, and the subtitle "Subtitle 6. Maryland State Arts  
 6 Council"; and the title "Title 2. Division of Tourism, Film, and the Arts",  
 7 respectively  
 8 Annotated Code of Maryland  
 9 (1998 Replacement Volume and 2000 Supplement)

10 ~~BY transferring~~

11 ~~Article 83B—Department of Housing and Community Development~~  
 12 ~~Section 5-101 and the subtitle "Subtitle 1. Division Established"; 5-301 through~~  
 13 ~~5-306, inclusive, and the subtitle "Subtitle 3. Commission on African~~  
 14 ~~American History and Culture"; 5-401 through 5-406, inclusive, and the~~  
 15 ~~subtitle "Subtitle 4. Commission on Indian Affairs"; 5-601 through~~  
 16 ~~5-611.1, 5-612 through 5-614.1, and 5-615 through 5-630, inclusive, and~~  
 17 ~~the subtitle "Subtitle 6. Maryland Historical Trust"; 5-701 through 5-705,~~  
 18 ~~inclusive, and the subtitle "Subtitle 7. Historical and Cultural Museum~~  
 19 ~~Assistance Program"; 5-801 and the subtitle "Subtitle 8. Rehabilitation~~  
 20 ~~Tax Credits"; and the title "Title 5. Division of Historical and Cultural~~  
 21 ~~Programs", respectively~~  
 22 ~~Annotated Code of Maryland~~  
 23 ~~(1998 Replacement Volume and 2000 Supplement)~~

24 to be

25 ~~Article 83D—Department of Tourism~~  
 26 ~~Section 3-101 and the subtitle "Subtitle 1. Division Established"; 3-202 through~~  
 27 ~~3-207, inclusive, and the subtitle "Subtitle 2. Commission on African~~  
 28 ~~American History and Culture"; 3-302 through 3-307, inclusive, and the~~  
 29 ~~subtitle "Subtitle 3. Commission on Indian Affairs"; 3-401 through 3-432,~~  
 30 ~~inclusive, and the subtitle "Subtitle 4. Maryland Historical Trust"; 3-501~~  
 31 ~~through 3-505, inclusive, and the subtitle "Subtitle 5. Historical and~~  
 32 ~~Cultural Museum Assistance Program"; 3-601 and the subtitle "Subtitle 6.~~  
 33 ~~Rehabilitation Tax Credits"; and the title "Title 3. Division of Historical~~  
 34 ~~and Cultural Programs", respectively~~  
 35 ~~Annotated Code of Maryland~~  
 36 ~~(1998 Replacement Volume and 2000 Supplement)~~

37 ~~BY adding~~

38 ~~New Article 83D—Department of Tourism~~  
 39 ~~Section 1-101 to be under the new subtitle "Subtitle 1. Definitions"; 1-201~~  
 40 ~~through 1-207 to be under the new subtitle "Subtitle 2. Department~~  
 41 ~~Established and Organized" and under the new title "Title 1. Definitions~~  
 42 ~~and Establishment of Department"; 2-101 and 2-401 to be under the~~  
 43 ~~amended title "Title 2. Division of Tourism Development, Film, and the~~  
 44 ~~Arts"; 3-102, 3-201, and 3-301~~

1 Annotated Code of Maryland  
2 (1998 Replacement Volume and 2000 Supplement)

3 ~~BY repealing and reenacting, without amendments,~~  
4 ~~Article 83D—Department of Tourism~~  
5 ~~Section 2-104, 2-202, 2-205, 2-207, 2-301, 2-402, 2-501, and 2-602~~  
6 ~~Annotated Code of Maryland~~  
7 ~~(1998 Replacement Volume and 2000 Supplement)~~  
8 ~~(As enacted by Section 2 of this Act)~~

9 ~~BY repealing and reenacting, with amendments,~~  
10 ~~Article 83D—Department of Tourism~~  
11 ~~Section 2-102, 2-103, 2-105, 2-106, 2-201, 2-203, 2-204, 2-206, 2-208, 2-403,~~  
12 ~~2-404, 2-405, 2-601, 2-603, 2-604, 2-605, 2-606, 2-607, 2-608, and~~  
13 ~~2-609~~  
14 ~~Annotated Code of Maryland~~  
15 ~~(1998 Replacement Volume and 2000 Supplement)~~  
16 ~~(As enacted by Section 2 of this Act)~~

17 ~~BY repealing and reenacting, without amendments,~~  
18 ~~Article 83D—Department of Tourism~~  
19 ~~Section 3-206, 3-305, 3-402, 3-409, 3-411, 3-415, 3-501, and 3-503~~  
20 ~~Annotated Code of Maryland~~  
21 ~~(1998 Replacement Volume and 2000 Supplement)~~  
22 ~~(As enacted by Section 3 of this Act)~~

23 ~~BY repealing and reenacting, with amendments,~~  
24 ~~Article 83D—Department of Tourism~~  
25 ~~Section 3-101, 3-202, 3-203, 3-204, 3-205, 3-207, 3-302, 3-303, 3-304, 3-306,~~  
26 ~~3-307, 3-401, 3-403, 3-404, 3-405, 3-406, 3-407, 3-408, 3-410, 3-412,~~  
27 ~~3-413, 3-414, 3-415, 3-416, 3-417, 3-418, 3-419, 3-420, 3-421, 3-422,~~  
28 ~~3-423, 3-424, 3-425, 3-426, 3-427, 3-428, 3-429, 3-430, 3-431, 3-432,~~  
29 ~~3-502, 3-504, 3-505, and 3-601~~  
30 ~~Annotated Code of Maryland~~  
31 ~~(1998 Replacement Volume and 2000 Supplement)~~  
32 ~~(As enacted by Section 3 of this Act)~~

33 ~~BY repealing and reenacting, with amendments,~~  
34 ~~Article 20A—Tri-County Council for Western Maryland~~  
35 ~~Section 4-103(a)~~  
36 ~~Annotated Code of Maryland~~  
37 ~~(1998 Replacement Volume and 2000 Supplement)~~

38 ~~BY repealing and reenacting, with amendments,~~

1 ~~Article—Education~~  
 2 ~~Section 24-502(b)~~  
 3 ~~Annotated Code of Maryland~~  
 4 ~~(1999 Replacement Volume and 2000 Supplement)~~

5 ~~BY repealing and reenacting, with amendments,~~  
 6 ~~Article—Financial Institutions~~  
 7 ~~Section 13-1103(b), 13-1104(a), 13-1106(a), 13-1110(c), and 13-1112~~  
 8 ~~Annotated Code of Maryland~~  
 9 ~~(1998 Replacement Volume and 2000 Supplement)~~

10 ~~BY repealing and reenacting, with amendments,~~  
 11 ~~Article—State Government~~  
 12 ~~Section 8-201~~  
 13 ~~Annotated Code of Maryland~~  
 14 ~~(1999 Replacement Volume and 2000 Supplement)~~

15 ~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF~~  
 16 ~~MARYLAND, That Section(s) 4-209 of Article 83A—Department of Business and~~  
 17 ~~Economic Development of the Annotated Code of Maryland be repealed.~~

18 ~~SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 4-101 through~~  
 19 ~~4-105, inclusive, and the subtitle "Subtitle 1. Division Established"; 4-201 through~~  
 20 ~~4-208, inclusive, and the subtitle "Subtitle 2. Maryland Tourism Development Board~~  
 21 ~~and Advisory Committee on Tourism"; 4-301 and the subtitle "Subtitle 3. Maryland~~  
 22 ~~Lower Eastern Shore Tourism Center"; 4-401 through 4-404, inclusive, and the~~  
 23 ~~subtitle "Subtitle 4. Maryland Film Office"; 4-501 and the subtitle "Subtitle 5. Film~~  
 24 ~~Production Activity Tax Exemptions"; 4-601 through 4-609, inclusive, and the~~  
 25 ~~subtitle "Subtitle 6. Maryland State Arts Council"; and the title "Title 4. Division of~~  
 26 ~~Tourism, Film, and the Arts", respectively, of Article 83A—Department of Business~~  
 27 ~~and Economic Development of the Annotated Code of Maryland be transferred to be~~  
 28 ~~Section(s) 2-102 through 2-106, inclusive, and the subtitle "Subtitle 1. Division~~  
 29 ~~Established"; 2-201 through 2-208, inclusive, and the subtitle "Subtitle 2. Maryland~~  
 30 ~~Tourism Development Board"; 3-301 and the subtitle "Subtitle 3. Maryland Lower~~  
 31 ~~Eastern Shore Tourism Center"; and 2-402 through 2-405, inclusive, and the subtitle~~  
 32 ~~"Subtitle 4. Maryland Film Office"; 2-501 and the subtitle "Subtitle 5. Film~~  
 33 ~~Production Activity Tax Exemptions"; 2-601 through 2-609, inclusive, and the~~  
 34 ~~subtitle "Subtitle 6. Maryland State Arts Council"; and the title "Title 2. Division of~~  
 35 ~~Tourism, Film, and the Arts", respectively, of Article 83D—Department of Tourism of~~  
 36 ~~the Annotated Code of Maryland.~~

37 ~~SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 5-101 and the~~  
 38 ~~subtitle "Subtitle 1. Division Established"; 5-301 through 5-306, inclusive, and the~~  
 39 ~~subtitle "Subtitle 3. Commission on African American History and Culture"; 5-401~~  
 40 ~~through 5-406, inclusive, and the subtitle "Subtitle 4. Commission on Indian Affairs";~~  
 41 ~~5-601 through 5-611.1, 5-612 through 5-614.1, and 5-615 through 5-630, inclusive,~~  
 42 ~~and the subtitle "Subtitle 6. Maryland Historical Trust"; 5-701 through 5-705,~~

1 inclusive, and the subtitle "Subtitle 7. Historical and Cultural Museum Assistance  
 2 Program"; 5-801 and the subtitle "Subtitle 8. Rehabilitation Tax Credits"; and the  
 3 title "Title 5. Division of Historical and Cultural Programs", respectively, of Article  
 4 83B—Department of Housing and Community Development of the Annotated Code of  
 5 Maryland be transferred to be Section(s) 3-101 and the subtitle "Subtitle 1. Division  
 6 Established"; 3-202 through 3-207, inclusive, and the subtitle "Subtitle 2.  
 7 Commission on African American History and Culture"; 3-302 through 3-307,  
 8 inclusive, and the subtitle "Subtitle 3. Commission on Indian Affairs"; 3-401 through  
 9 3-432, inclusive, and the subtitle "Subtitle 4. Maryland Historical Trust"; 3-501  
 10 through 3-505, inclusive, and the subtitle "Subtitle 5. Historical and Cultural  
 11 Museum Assistance Program"; 3-601, and the subtitle "Subtitle 6. Rehabilitation Tax  
 12 Credits"; and the title "Title 3. Division of Historical and Cultural Programs",  
 13 respectively, of Article 83D—Department of Tourism of the Annotated Code of  
 14 Maryland.

15 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
 16 read as follows:

17 **ARTICLE 83D—DEPARTMENT OF TOURISM**

18 **TITLE 1. DEFINITIONS AND ESTABLISHMENT OF DEPARTMENT.**

19 **SUBTITLE 1. DEFINITIONS.**

20 ~~1-101.~~

21 (A) ~~IN THIS ARTICLE THE FOLLOWING WORDS HAVE THE MEANINGS~~  
 22 ~~INDICATED:~~

23 (B) ~~"DEPARTMENT" MEANS THE DEPARTMENT OF TOURISM.~~

24 (C) ~~"SECRETARY" MEANS THE SECRETARY OF TOURISM.~~

25 (D) ~~"STATE" MEANS THE STATE OF MARYLAND.~~

26 **SUBTITLE 2. DEPARTMENT ESTABLISHED AND ORGANIZED.**

27 ~~1-201.~~

28 ~~THERE IS A DEPARTMENT OF TOURISM, ESTABLISHED AS A PRINCIPAL~~  
 29 ~~DEPARTMENT OF THE STATE GOVERNMENT.~~

30 ~~1-202.~~

31 (A) ~~THE HEAD OF THE DEPARTMENT IS THE SECRETARY OF TOURISM, WHO~~  
 32 ~~SHALL BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE~~  
 33 ~~SENATE.~~

34 (B) ~~BEFORE TAKING OFFICE, THE APPOINTEE SHALL TAKE THE OATH~~  
 35 ~~REQUIRED BY ARTICLE 1, § 9 OF THE MARYLAND CONSTITUTION.~~

1 ~~(C) (1) THE SECRETARY SERVES AT THE PLEASURE OF THE GOVERNOR AND~~  
2 ~~IS RESPONSIBLE DIRECTLY TO THE GOVERNOR.~~

3 ~~(2) THE SECRETARY SHALL ADVISE THE GOVERNOR ON ALL MATTERS~~  
4 ~~ASSIGNED TO THE DEPARTMENT AND IS RESPONSIBLE FOR CARRYING OUT THE~~  
5 ~~GOVERNOR'S POLICIES ON THESE MATTERS.~~

6 ~~(3) THE SECRETARY IS RESPONSIBLE FOR THE OPERATION OF THE~~  
7 ~~DEPARTMENT AND SHALL ESTABLISH GUIDELINES AND PROCEDURES TO PROMOTE~~  
8 ~~THE ORDERLY AND EFFICIENT OPERATION OF THE DEPARTMENT.~~

9 ~~(4) THE SECRETARY MAY ESTABLISH, REORGANIZE, OR CONSOLIDATE~~  
10 ~~AREAS OF RESPONSIBILITY IN THE OFFICE OF THE SECRETARY AS NECESSARY TO~~  
11 ~~FULFILL THE DUTIES ASSIGNED TO THE SECRETARY.~~

12 ~~(5) THE SECRETARY IS RESPONSIBLE FOR ESTABLISHING POLICY TO BE~~  
13 ~~FOLLOWED BY THE UNITS IN THE DEPARTMENT.~~

14 ~~(D) THE SECRETARY IS ENTITLED TO THE SALARY PROVIDED IN THE STATE~~  
15 ~~BUDGET.~~

16 ~~1-203.~~

17 ~~(A) (1) WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL~~  
18 ~~APPOINT A DEPUTY SECRETARY.~~

19 ~~(2) THE DEPUTY SECRETARY:~~

20 ~~(I) SERVES AT THE PLEASURE OF THE SECRETARY;~~

21 ~~(II) IS ENTITLED TO THE SALARY PROVIDED IN THE STATE~~  
22 ~~BUDGET; AND~~

23 ~~(III) HAS THE DUTIES PROVIDED BY LAW OR DESIGNATED BY THE~~  
24 ~~SECRETARY.~~

25 ~~(B) (1) THE SECRETARY MAY EMPLOY A STAFF ATTACHED TO THE OFFICE~~  
26 ~~OF THE SECRETARY, IN ACCORDANCE WITH THE STATE BUDGET.~~

27 ~~(2) EACH STAFF ASSISTANT IN THE OFFICE OF THE SECRETARY IN~~  
28 ~~CHARGE OF A PARTICULAR AREA OF RESPONSIBILITY AND EACH PROFESSIONAL~~  
29 ~~CONSULTANT IS IN THE EXECUTIVE SERVICE, MANAGEMENT SERVICE, OR IS A~~  
30 ~~SPECIAL APPOINTMENT IN THE STATE PERSONNEL MANAGEMENT SYSTEM AND IS~~  
31 ~~APPOINTED BY AND SERVES AT THE PLEASURE OF THE SECRETARY.~~

32 ~~(3) UNLESS OTHERWISE PROVIDED BY LAW, THE SECRETARY SHALL~~  
33 ~~APPOINT AND REMOVE ALL OTHER STAFF IN THE OFFICE OF THE SECRETARY IN~~  
34 ~~ACCORDANCE WITH THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS~~  
35 ~~ARTICLE.~~

36 ~~(4) THE SECRETARY MAY:~~

1                   (I)     ~~REVIEW ANY PERSONNEL ACTION TAKEN BY ANY UNIT IN THE~~  
2 ~~DEPARTMENT; AND~~

3                   (II)    ~~DELEGATE TO THE HEAD OR GOVERNING BODY OF ANY UNIT IN~~  
4 ~~THE DEPARTMENT THE POWER TO APPROVE ANY APPOINTMENT OR REMOVAL.~~

5                   (5)     ~~WHENEVER THE SECRETARY IS AUTHORIZED BY LAW TO MAKE AN~~  
6 ~~APPOINTMENT WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY MAY NOT~~  
7 ~~REMOVE THE APPOINTEE WITHOUT FIRST OBTAINING THE APPROVAL OF THE~~  
8 ~~GOVERNOR.~~

9 ~~4-204.~~

10           (A)     ~~THE SECRETARY IS RESPONSIBLE FOR THE BUDGET OF THE OFFICE OF~~  
11 ~~THE SECRETARY AND FOR THE BUDGET OF EACH UNIT IN THE DEPARTMENT.~~

12           (B)     ~~THE SECRETARY SHALL HAVE A SEAL.~~

13           (C)     (1)    ~~THE SECRETARY IS RESPONSIBLE FOR THE PLANNING OF~~  
14 ~~ACTIVITIES, PROGRAMS, AND SERVICES OF THE DEPARTMENT.~~

15                   (2)    ~~THE SECRETARY MAY REVIEW AND APPROVE, DISAPPROVE, OR~~  
16 ~~MODIFY THE PLANS AND PROPOSALS OF THE UNITS OF THE DEPARTMENT.~~

17           (D)     ~~THE SECRETARY MAY INVESTIGATE OR HOLD A HEARING ON ANY~~  
18 ~~COMPLAINT ABOUT THE OPERATION OF A UNIT IN THE DEPARTMENT AND MAY~~  
19 ~~REPORT THE FINDINGS OF THE SECRETARY TO THE GOVERNOR.~~

20           (E)     ~~AT ANY TIME, THE SECRETARY MAY A CALL A MEETING OF A BOARD OR A~~  
21 ~~COMMISSION IN THE DEPARTMENT TO CONSIDER ANY SUBJECT.~~

22           (F)     ~~ALL UNITS OF THE DEPARTMENT SHALL REPORT TO THE SECRETARY OR~~  
23 ~~THE SECRETARY'S DESIGNEE AS PROVIDED IN REGULATIONS OR WRITTEN~~  
24 ~~DIRECTIVES ADOPTED BY THE SECRETARY.~~

25 ~~4-205.~~

26           (A)     ~~THE SECRETARY MAY ADOPT REGULATIONS FOR THE OFFICE OF THE~~  
27 ~~SECRETARY.~~

28           (B)     ~~BEFORE A UNIT IN THE DEPARTMENT PUBLISHES A PROPOSED~~  
29 ~~REGULATION UNDER § 10-112 OF THE STATE GOVERNMENT ARTICLE, THE UNIT~~  
30 ~~SHALL SUBMIT THE PROPOSED REGULATION TO THE SECRETARY.~~

31 ~~4-206.~~

32           (A)     ~~THIS SECTION DOES NOT APPLY TO A UNIT IN THE DEPARTMENT TO THE~~  
33 ~~EXTENT THAT THE UNIT IS AUTHORIZED BY LAW TO EMPLOY ITS OWN LEGAL~~  
34 ~~ADVISOR OR COUNSEL.~~

35           (B)     ~~THE ATTORNEY GENERAL IS LEGAL ADVISOR TO THE DEPARTMENT.~~

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1       (C)     ~~THE ATTORNEY GENERAL SHALL ASSIGN TO THE DEPARTMENT THE~~  
 2 ~~NUMBER OF ASSISTANT ATTORNEYS GENERAL AUTHORIZED BY LAW FOR THE~~  
 3 ~~DEPARTMENT AND ITS UNITS.~~

4       (D)     (1)   ~~THE ATTORNEY GENERAL SHALL DESIGNATE AN ASSISTANT~~  
 5 ~~ATTORNEY GENERAL ASSIGNED TO THE DEPARTMENT AS COUNSEL TO THE~~  
 6 ~~DEPARTMENT.~~

7               (2)   ~~AFTER THE ATTORNEY GENERAL DESIGNATES THE COUNSEL TO THE~~  
 8 ~~DEPARTMENT, THE ATTORNEY GENERAL MAY NOT REASSIGN THE COUNSEL~~  
 9 ~~WITHOUT CONSULTING THE SECRETARY.~~

10              (3)   (4)   ~~THE COUNSEL MAY HAVE NO DUTY OTHER THAN TO GIVE THE~~  
 11 ~~LEGAL AID, ADVICE, AND COUNSEL REQUIRED BY THE SECRETARY OR ANY OTHER~~  
 12 ~~OFFICIAL OF THE DEPARTMENT, TO SUPERVISE THE OTHER ASSISTANT ATTORNEYS~~  
 13 ~~GENERAL ASSIGNED TO THE DEPARTMENT, AND TO PERFORM FOR THE~~  
 14 ~~DEPARTMENT THE DUTIES THAT THE ATTORNEY GENERAL ASSIGNS.~~

15                   (H)   ~~THE COUNSEL SHALL PERFORM THESE DUTIES SUBJECT TO~~  
 16 ~~THE CONTROL AND SUPERVISION OF THE ATTORNEY GENERAL.~~

17 ~~1-207.~~

18       (A)     ~~THE FOLLOWING UNITS ARE IN THE DEPARTMENT:~~

19               (1)   ~~THE DIVISION OF TOURISM DEVELOPMENT, FILM, AND THE ARTS;~~

20               (2)   ~~THE DIVISION OF HISTORICAL AND CULTURAL PROGRAMS;~~

21               (3)   ~~THE MARYLAND TOURISM DEVELOPMENT BOARD;~~

22               (4)   ~~THE MARYLAND STATE ARTS COUNCIL;~~

23               (5)   ~~THE COMMISSION ON AFRICAN AMERICAN HISTORY AND CULTURE;~~

24               (6)   ~~THE COMMISSION ON INDIAN AFFAIRS; AND~~

25               (7)   ~~THE MARYLAND HISTORICAL TRUST.~~

26       (B)     ~~THE DEPARTMENT ALSO INCLUDES ANY OTHER UNIT THAT IS ASSIGNED~~  
 27 ~~TO THE DEPARTMENT.~~

28                   ~~Title 2. Division of Tourism DEVELOPMENT, Film, and the Arts.~~

29                               ~~Subtitle 1. Division Established.~~

30 ~~2-101.~~

31       IN THIS SUBTITLE, "DIVISION" MEANS THE DIVISION OF TOURISM  
 32 DEVELOPMENT, FILM, AND THE ARTS.

1 ~~2-102.~~

2 There is a Division of Tourism DEVELOPMENT, Film, and the Arts within the  
3 Department.

4 ~~2-103.~~

5 (a) (1) ~~With the approval of the Governor, the Secretary shall appoint a~~  
6 ~~Director of the Division of Tourism DEVELOPMENT, Film, and the Arts.~~

7 (2) ~~The Director shall hold office at the Secretary's pleasure.~~

8 (3) ~~With the approval of the Governor, the Director may be removed by~~  
9 ~~the Secretary.~~

10 (4) ~~Any such removal by the Secretary is final and is not subject to any~~  
11 ~~appeal.~~

12 (b) ~~The Director shall be selected because of known experience and interest in~~  
13 ~~tourism, film, and the arts.~~

14 (c) ~~The Director shall operate this Division under the direction of the~~  
15 ~~Secretary in accordance with the provisions of law.~~

16 ~~2-104.~~

17 The Division shall:

18 (1) ~~Stimulate development of tourist business in Maryland;~~

19 (2) ~~Promote Maryland business and job opportunities;~~

20 (3) ~~Encourage development of recreational areas and facilities;~~

21 (4) ~~Make the public aware of the State's heritage and historical~~  
22 ~~development;~~

23 (5) ~~Advertise the State and disseminate information about the State;~~

24 (6) ~~Encourage the promotion and development of amateur and~~  
25 ~~professional sports in this State;~~

26 (7) ~~Encourage the advancement of and participation in the performing,~~  
27 ~~visual, and creative arts; and~~

28 (8) ~~Administer those programs assigned to the Division by law or~~  
29 ~~designated by the Secretary.~~

1 ~~2-105.~~

2 The Director of the Division shall receive the salary and have [such] deputies,  
3 assistants, employees, and professional consultants as provided in the State budget.

4 ~~2-106.~~

5 (A) (1) ~~The Department may establish a consolidated publications account.~~

6 (2) ~~Excess revenues remaining at the end of the fiscal year, derived from~~  
7 ~~publications of the Department or [any agency] A UNIT in the Department, may be~~  
8 ~~placed in this account.~~

9 (3) ~~Expenditures from the account are restricted to cost of producing,~~  
10 ~~distributing, and promoting publications of the Department and [agencies] UNITS~~  
11 ~~within the Department, including the cost of free publications.~~

12 (B) (1) ~~Unexpended moneys in the account at the end of fiscal 1975 and any~~  
13 ~~subsequent fiscal year shall not revert, but shall be maintained as a special fund, up~~  
14 ~~to a maximum of \$40,000.~~

15 (2) ~~Any excess over \$40,000 shall revert to the general funds of the State.~~

16 ~~Subtitle 2. Maryland Tourism Development Board and Advisory Committee on~~  
17 ~~Tourism.~~

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

20 **Article 83A - Department of Business and Economic Development**

21 ~~2-201. 4-201.~~

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

23 (b) "Advisory Committee" means the Advisory Committee on Tourism.

24 (c) "Board" means the Maryland Tourism Development Board.

25 ~~2-202.~~

26 ~~The General Assembly declares it to be the policy of the State to guide,~~  
27 ~~stimulate, and promote the coordinated, efficient, and beneficial development of~~  
28 ~~travel and tourism in the State so that the State can derive, to the fullest extent~~  
29 ~~possible, the economic, social, and cultural benefits that travel and tourism in~~  
30 ~~Maryland generates.~~

31 ~~2-203. 4-203.~~

32 (a) There is a Maryland Tourism Development Board in the Department.

1 (b) (1) The Board consists of [17] 19 members appointed as follows:

2 (i) 11 members shall be appointed by the Governor in consultation  
3 with the Secretary and with the advice and consent of the Senate;

4 (ii) [3] 4 members shall be appointed by the President of the  
5 Senate of Maryland, [1] 2 of whom shall be from the private sector business  
6 community; and

7 (iii) [3] 4 members shall be appointed by the Speaker of the House  
8 of Delegates, [1] 2 of whom shall be from the private sector business community.

9 (2) {2} ~~TWO~~ members of the Board at all times shall be members of the  
10 General Assembly of Maryland, 1 a member of the Senate of Maryland appointed by  
11 the President and the other a member of the House of Delegates appointed by the  
12 Speaker.

13 (3) IN MAKING THE APPOINTMENTS FROM THE PRIVATE SECTOR  
14 BUSINESS COMMUNITY, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE  
15 HOUSE SHALL:

16 (I) ENSURE THAT EACH GEOGRAPHIC REGION OF THE STATE IS  
17 EQUITABLY REPRESENTED; AND

18 (II) GIVE DUE CONSIDERATION TO THE RECOMMENDATIONS MADE  
19 BY REPRESENTATIVES OF THE TOURISM INDUSTRY AND PROVIDE BALANCED  
20 REPRESENTATION OF THE LODGING, FOOD SERVICE, TRANSPORTATION, RETAIL,  
21 AND AMUSEMENTS AND ATTRACTIONS SECTORS OF THE TOURISM INDUSTRY.

22 [(3)] (4) A member of the Board who is a member of the General  
23 Assembly may not vote on matters before the Board relating to the exercise of the  
24 sovereign powers of the State.

25 [(4)] (5) In making the appointments THAT THE GOVERNOR IS  
26 REQUIRED TO MAKE UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, the Governor  
27 shall:

28 (i) Ensure that each geographic region of the State is EQUITABLY  
29 represented; and

30 (ii) Give due consideration to the recommendations made by  
31 representatives of the tourism industry and provide balanced representation of the  
32 lodging, food service, transportation, RETAIL, and amusements and attractions  
33 sectors of the tourism industry.

34 (c) (1) The term of a member is 3 years and begins on July 1.

35 (2) The terms of the members are staggered as required by the terms  
36 provided for the members of the Board on July 1, 1993.

1 (3) Any member is eligible for reappointment, but after serving for 2  
2 consecutive 3-year terms, a member may not be reappointed until the expiration of at  
3 least one year after the termination of the member's previous tenure.

4 (4) Vacancies shall be filled immediately for the remainder of the  
5 unexpired portion of the term.

6 (5) A member shall hold office until a successor has been appointed.

7 (4) (6) A member of the General Assembly who is appointed to the  
8 Board by the President or the Speaker serves until a successor is appointed.

9 (d) Each member of the Board appointed by the Governor serves at the  
10 pleasure of the Governor. Members of the Board shall serve without compensation,  
11 but each member shall be reimbursed for necessary travel and other expenses  
12 incurred in the performance of official duties in accordance with the Standard State  
13 Travel Regulations. The Board shall select annually from its membership a  
14 chairman, [4] 5 vice-chairmen, 1 each to represent the lodging, food service,  
15 transportation, RETAIL, and attractions sectors, and a secretary-treasurer.

16 (E) EACH MEMBER OF THE BOARD APPOINTED BY THE GOVERNOR SERVES AT  
17 THE PLEASURE OF THE GOVERNOR.

18 (F) MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION, BUT  
19 EACH MEMBER SHALL BE REIMBURSED FOR NECESSARY TRAVEL AND OTHER  
20 EXPENSES INCURRED IN THE PERFORMANCE OF OFFICIAL DUTIES IN ACCORDANCE  
21 WITH THE STANDARD STATE TRAVEL REGULATIONS.

22 2-204.

23 (A) The Board shall meet at [the call of] TIMES DETERMINED BY the  
24 chairman.

25 (B) The Board shall meet at least 4 times a year.

26 2-205.

27 (a) The Office of Tourism Development of the Department shall provide a staff  
28 to the Board.

29 (b) The Board shall use the facilities, equipment, and supplies of the Office of  
30 Tourism Development to conduct its business.

31 (c) The Director of the Office of Tourism Development of the Department shall  
32 serve as the Executive Director of the Board as part of the regular duties of the  
33 Director of the Office of Tourism Development and with no additional compensation.

34 2-206.

35 Subject to the approval of the Secretary, the Board has the following powers and  
36 duties:

1 (1) To adopt reasonable regulations to effectuate the provisions of this  
2 subtitle;

3 (2) To enter into contracts and agreements;

4 (3) To engage services;

5 (4) To request and obtain from any department, division, [board,]  
6 bureau, [commission ] or other [agency or] unit of the State, assistance and data to  
7 enable [it] THE BOARD to carry out its powers and duties under this subtitle;

8 (5) To accept any federal funds granted by an act of Congress or by  
9 executive order for any of the purposes of this subtitle;

10 (6) To accept any gifts, donations, or bequests for any of the purposes of  
11 this subtitle; and

12 (7) Subject to the provisions of [~~§ 4-208~~] § 2-208 of this subtitle, to  
13 generate revenue through sales of goods and services relating to tourism.

14 ~~2-207.~~

15 Subject to the approval of the Secretary, the Board shall:

16 (1) Draft and implement:

17 (i) A 5-year strategic plan for the promotion and development of  
18 tourism in Maryland; and

19 (ii) An annual marketing plan consistent with the strategic plan;

20 (2) Submit to the Maryland Economic Development Commission for its  
21 review the 5-year strategic plan and annual marketing plan;

22 (3) Establish an annual operating budget consistent with the marketing  
23 plan;

24 (4) Protect, preserve, promote, and restore the natural, historical, scenic,  
25 and cultural resources in the State;

26 (5) Encourage the development of new tourism resources, products,  
27 businesses, and attractions in the State;

28 (6) Facilitate the movement and activities of tourists to, from, and  
29 within the State through signs, information aids, and other services;

30 (7) Improve the safety and security of tourists in the State;

31 (8) Encourage and facilitate training and education of individuals for  
32 jobs in the tourism industry, and provide a healthy environment for the development  
33 of human resources in tourism businesses;

- 1           (9)     Encourage residents to pursue careers in the tourism industry;
- 2           (10)    Produce a climate conducive to small tourism business growth and  
3 viability;
- 4           (11)    Review existing and proposed taxes, fees, licenses, regulations, and  
5 regulatory procedures affecting tourism and tourism businesses in the State and  
6 evaluate their impact on the ability of the tourism industry to create employment and  
7 generate income;
- 8           (12)    Support the conducting of research necessary to evaluate, plan, and  
9 execute effective tourism programs;
- 10          (13)    Cooperate with other public and private agencies and organizations  
11 in the development and promotion of the State's tourism and travel industries;
- 12          (14)    Encourage, assist, and coordinate the tourism activities of local and  
13 regional promotional organizations;
- 14          (15)    Publish and submit to the Commission and the Secretary an annual  
15 report and other material that the Board considers appropriate;
- 16          (16)    Set policies regarding the expenditures of appropriated and other  
17 funds for tourism advertising, written and graphic materials, cooperative and  
18 matching promotional programs, and other tourism and travel developmental and  
19 promotional activities for the State; and
- 20          (17)    Spend funds of the Maryland Tourism Development Board Fund for  
21 the planning, advertising, promotion, assistance, and development of tourism and  
22 travel industries in this State.

23 ~~2-208.~~

24    (A)     ~~IN THIS SECTION, "FUND" MEANS THE MARYLAND TOURISM~~  
25 ~~DEVELOPMENT BOARD FUND.~~

26 4-208.

27    {(a)}    ~~(B)~~     There is a Maryland Tourism Development Board Fund.

28    {(b)}    ~~(C)~~     The Fund is established to provide a continuing fund for the Board to  
29 fund programs relating to the planning, advertising, promotion, assistance, and  
30 development of the tourism industry in the State.

31    {(c)}    ~~(D)~~     The Fund is a special, continuous, nonlapsing fund that is not subject  
32 to § 7-302 of the State Finance and Procurement Article.

33    {(d)}    ~~(E)~~     The Treasurer shall invest and reinvest the Fund in the same  
34 manner as other State funds and credit any investment earnings to the General  
35 Fund.

1     ~~{(e)}~~     ~~(F)~~     The Fund consists of:

2                     (1)     Moneys appropriated in the State budget to the Fund; and

3                     (2)     All funds accepted by the Board in accordance with ~~{§ 4-206}~~ ~~§ 2-206~~  
4 of this subtitle.

5     ~~{(f)}~~     ~~(G)~~     Expenditures from the Fund may be made only by the Board in  
6 accordance with an appropriation.

7     ~~{(g)}~~     ~~(H)~~     (1)     In this subsection, "Governor's proposed General Fund  
8 appropriation" means the General Fund appropriation included by the Governor in  
9 the annual budget bill as submitted to the General Assembly, including any proposed  
10 supplemental budget, before any amendment by the General Assembly.

11                    (2)     The Governor shall include in the annual budget bill a proposed  
12 General Fund appropriation to the Fund in an amount not less than:

13                    (i)     \$4,000,000, for fiscal year 1999;

14                    (ii)    \$5,000,000, for fiscal year 2000; [and]

15                    (iii)   \$6,000,000, for fiscal year 2001 [and subsequent fiscal years]  
16 AND FISCAL YEAR 2002, RESPECTIVELY; AND

17                    (IV)   \$8,500,000, FOR FISCAL YEAR 2003; AND EACH FISCAL YEAR  
18 THEREAFTER.

19                    ~~(V)     \$11,000,000, FOR FISCAL YEAR 2004;~~

20                    ~~(VI)    \$13,500,000, FOR FISCAL YEAR 2005;~~

21                    ~~(VII)   \$15,000,000, FOR FISCAL YEAR 2006; AND~~

22                    ~~(VIII) \$17,500,000, FOR FISCAL YEAR 2007 AND EACH FISCAL YEAR~~  
23 ~~THEREAFTER.~~

24                    (3)     For each fiscal year, in addition to any appropriation for tourism  
25 marketing from the Maryland Tourism Development Board Fund, the Governor shall  
26 include in the annual budget bill submitted to the General Assembly a General Fund  
27 appropriation for the Office of Tourism Development in an amount not less than the  
28 amount of the Governor's proposed General Fund appropriation for the Office of  
29 Tourism Development for fiscal year [1995] 2001.

30     SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Tourism  
31 Development Board in the Department of Business and Economic Development shall  
32 report by December 1, 2002 to the Senate Finance Committee, the Senate Budget and  
33 Taxation Committee, and the House Economic Matters Committee on: (1) its activities  
34 relating to planning, advertising, promotion, assistance, and development of the  
35 tourism industry in the State during fiscal years 2001 and 2002; (2) its plan of

1 *activities anticipated during fiscal years 2003 through 2007; and (3) its*  
 2 *recommendations on the funding level for fiscal 2004 and subsequent fiscal years.*

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 4 June 1, 2001.

5 ~~Subtitle 3. Maryland Lower Eastern Shore Tourism Center.~~

6 ~~2-301.~~

7 (a) ~~There is a Maryland Lower Eastern Shore Tourism Center Advisory~~  
 8 ~~Committee.~~

9 (b) (1) ~~The Maryland Lower Eastern Shore Tourism Center Advisory~~  
 10 ~~Committee consists of 9 members.~~

11 (2) ~~Of the 9 Advisory Committee members:~~

12 (i) ~~3 shall be from Somerset County;~~

13 (ii) ~~3 shall be from Wicomico County; and~~

14 (iii) ~~3 shall be from Worcester County.~~

15 (3) ~~The Board of County Commissioners in Somerset and Worcester~~  
 16 ~~Counties and the County Council of Wicomico County shall appoint the members of~~  
 17 ~~the Advisory Committee from the respective counties.~~

18 (c) ~~Each member of the Advisory Committee shall be:~~

19 (1) ~~A member of the general public; and~~

20 (2) ~~A resident of the county from which the member is appointed.~~

21 (d) (1) ~~The term of a member is 5 years.~~

22 (2) ~~The terms of members are staggered as required by the terms~~  
 23 ~~provided for members of the Board on July 1, 1984.~~

24 (3) ~~At the end of a term, a member continues to serve until a successor is~~  
 25 ~~appointed and qualifies.~~

26 (4) ~~A member who is appointed after a term has begun serves only for~~  
 27 ~~the rest of the term and until a successor is appointed and qualifies.~~

28 (e) ~~The Board of County Commissioners in Somerset and Worcester Counties~~  
 29 ~~and the County Council in Wicomico County may remove a member of the Advisory~~  
 30 ~~Committee representing their respective county for incompetence or misconduct.~~

31 (f) ~~The Advisory Committee shall advise and counsel the Department on the~~  
 32 ~~development and operation of the Maryland Lower Eastern Shore Tourism Center.~~

## Subtitle 4. Maryland Film Office.

1  
2 ~~2-401.~~

3 ~~IN THIS SECTION, "OFFICE" MEANS THE MARYLAND FILM OFFICE.~~

4 ~~2-402.~~

5 ~~There is a Maryland Film Office within the Department.~~

6 ~~2-403.~~

7 The Office may:

8 (1) Request and obtain from [any agency] A UNIT of State and local  
9 government any assistance and information necessary to carry out this subtitle;

10 (2) Accept and expend any gifts, bequests, or grants from public or  
11 private sources for any of the purposes of this subtitle; and

12 (3) Expend moneys made available by the budget and do any other acts  
13 necessary to carry out this subtitle.

14 ~~2-404.~~

15 The Office shall develop and implement a program to promote the production of  
16 motion pictures and television [within this] IN THE State, including:

17 (1) [The preparation] PREPARATION and distribution of appropriate  
18 promotional and informational materials pointing out desirable locations [within] IN  
19 the State for the production of motion pictures and television, explaining the benefits  
20 and advantages of producing motion pictures and television [within] IN the State,  
21 and detailing the services and assistance available [within] IN State government [as  
22 well as] INCLUDING services available at the local level and [within] IN the industry;

23 (2) Assisting motion picture and television companies to secure location  
24 permits and other appropriate services connected with motion picture and television  
25 production; and

26 (3) Facilitating cooperation from local [government], State, and federal  
27 government agencies and private sector groups in the location and production of  
28 motion pictures and television.

29 ~~2-405.~~

30 The Office shall coordinate with activities of similar offices, councils or boards  
31 appointed by any local [governments within] GOVERNMENT IN this State for any of  
32 the purposes of this subtitle.



1 (g) The standards of artistic performance will be improved because of the  
2 encouragement of increased citizen participation, and a demand for higher standards  
3 for more citizens[; and].

4 (h) The general economy will be helped by the increased employment caused  
5 by the implementation of artistic programs, by the construction of places of  
6 performance and exhibition of artistic programs, and by many visitors who will visit  
7 the State to witness these programs.

8 ~~2-602.~~

9 The General Assembly declares it to be the policy of the State to strive to create  
10 a nurturing climate for the arts in the State and to join with private patrons and with  
11 institutions and professional organizations concerned with the arts, to ensure that  
12 the role of the arts in the life of the citizens of the State will continue to grow and play  
13 an ever more significant part in their welfare and educational experience.

14 ~~2-603.~~

15 The General Assembly declares that all activities undertaken by the State, in  
16 carrying out the policy set forth in [~~§ 4-602~~] § 2-602 of this subtitle, shall be directed  
17 toward encouraging and assisting rather than [~~in any way~~] limiting the freedom of  
18 artistic expression which is essential for the well-being of the arts.

19 ~~2-604.~~

20 (a) There is a Maryland State Arts Council [~~which shall be part of~~] IN the  
21 Department.

22 (b) (1) The Council consists of 17 members [~~, 13 of whom shall be selected as~~  
23 ~~provided in paragraph (1) of this subsection and 4 of whom shall be selected as~~  
24 ~~provided in paragraph (2) of this subsection.~~].

25 [(1)] (2) (i) [~~13~~] THIRTEEN members of the Council shall be  
26 appointed by the Governor in consultation with the Secretary and with the advice and  
27 consent of the Senate, for terms of 3 years each.

28 (II) The terms of members are staggered as required by the terms  
29 provided for members of the Council on July 1, 1985.

30 [(ii)] (III) Any member is eligible for reappointment, but after  
31 serving for 2 consecutive 3 year terms, no member may be reappointed until the  
32 expiration of at least 1 year after the termination of the member's previous tenure.

33 (IV) Vacancies shall be filled immediately for the remainder of the  
34 unexpired portion of the term.

35 (V) A member shall hold office until a successor has been appointed.

1           ~~[(2)] (3) (i) [2] TWO~~ members of the Council shall be appointed by the  
 2 President of the Senate of Maryland and 2 members of the Council shall be appointed  
 3 by the Speaker of the House of Delegates of Maryland.

4                   (ii)     ~~[2] TWO~~ members of the Council at all times shall be members  
 5 of the General Assembly of Maryland, ~~[1] ONE~~ a member of the Senate of Maryland  
 6 appointed by the President and the other a member of the House of Delegates of  
 7 Maryland appointed by the Speaker.

8                   (iii)    A member of the General Assembly who is appointed under this  
 9 paragraph serves until a successor is appointed.

10                  (IV)    If a Council member appointed under this paragraph is not a  
 11 member of the General Assembly, the member shall serve for a 3-year term in  
 12 accordance with paragraph ~~[(1)(ii)] (2)(III)~~ of this subsection.

13       (e)        In making the appointments, the Governor shall give due consideration to  
 14 the recommendations made by the representatives of civic, educational and  
 15 professional organizations concerned with or engaged in the production or  
 16 presentation of the performing, visual or creative arts and shall provide balanced  
 17 geographic representation.

18       (d)        Members of the Maryland State Arts Council shall serve without  
 19 compensation, but each member shall be reimbursed for necessary ~~[traveling]~~  
 20 TRAVEL and other expenses incurred in the performance of official duties in  
 21 accordance with the Standard State Travel Regulations.

22       (e)        The Council shall select annually from its membership a chairman, a  
 23 vice chairman and a secretary treasurer.

24 ~~2-605.~~

25       (A)        ~~[Meetings of the] THE~~ Council shall ~~[be called] MEET AT TIMES~~  
 26 ~~DETERMINED~~ by the chairman or the Secretary.

27       (B)        The Council shall meet at least 4 times annually.

28 ~~2-606.~~

29       (a)        The Council shall have the power and authority ~~[necessary]~~ to carry out  
 30 the duties imposed ~~[upon it]~~ by this subtitle and subject to the approval of the  
 31 Secretary, including ~~[but not limited to the following]:~~

32                  (1)        Continuing all programs and activities and assuming all assets,  
 33 liabilities, contracts, leases and other ~~[such]~~ obligations of the body formerly known  
 34 as the Governor's Council on the Arts in Maryland~~[-];~~

35                  (2)        Adopting reasonable ~~[rules and]~~ regulations to ~~[effectuate] CARRY~~  
 36 ~~OUT~~ the provisions of this subtitle~~[-];~~

- 1           (3)     Entering into contracts and agreements[-];
- 2           (4)     Engaging services[-];
- 3           (5)     Requesting and obtaining ASSISTANCE AND DATA from [any] A  
4 department, division, [board,] bureau, [commission] or other [agency] UNIT of the  
5 State [-, such assistance and data as will enable it properly to carry out its powers and  
6 duties hereunder.];
- 7           (6)     Accepting any federal funds granted by act of Congress or by  
8 executive order for any [and all of the purposes] PURPOSE of this subtitle.
- 9           (7)     Accepting any gifts, donations or bequests for any [or all of the  
10 purposes] PURPOSE of this subtitle[-];
- 11         (b)     The Council, subject to the approval of the Secretary, shall appoint[, from  
12 without its members,] an executive director of the Council WHO IS NOT A MEMBER OF  
13 THE COUNCIL.
- 14         (c)     The executive director shall serve at the pleasure of the Council, subject to  
15 the concurrence of the Secretary, and shall be a special appointment in the State  
16 Personnel Management System.
- 17         (d)     Subject to the rules and policies set forth by the Council and the  
18 administrative supervision of the Secretary, the executive director shall:
- 19           (1)     Be the administrative officer of the Council staff;
- 20           (2)     Direct, administer, and supervise the activities of the Council staff;  
21 and
- 22           (3)     Appoint and remove employees of the Council.
- 23 ~~2-607.~~
- 24         (a)     The Council is authorized to conduct programs subject to approval of the  
25 Secretary, including[, but not limited to the following]:
- 26           (1)     Continuation of the program of the body formerly known as the  
27 Governor's Council on the Arts in Maryland including its statewide survey of  
28 resources and needs in the arts[-];
- 29           (2)     Determine the extent to which existing resources can fill the  
30 needs[-];
- 31           (3)     Design new or expanded programs in the arts [either individually or  
32 in concert] with [existing] arts organizations [or arts organizations which may come  
33 into existence hereafter.];
- 34           (4)     Encourage and assist in the formation and activities of local  
35 community arts councils[-];

1           (5)     Provide technical and consultative assistance to arts organizations  
2 ~~[throughout] IN the State[.];~~

3           (6)     Assist, both logistically and financially, in the touring of outstanding  
4 professional performances and exhibitions of art ~~[, from within and outside the State,~~  
5 ~~to communities throughout] IN the State[.];~~

6           (7)     ~~Make awards for excellence in the arts[.];~~

7           (8)     ~~Make grants to arts organizations and individual artists[.];~~

8           (9)     ~~Cooperate with educational institutions and organizations to~~  
9 ~~establish a higher level of education in and appreciation of the arts on the part of~~  
10 ~~students [throughout] IN the State[.];~~

11          (10)    ~~Explore the feasibility of regional arts programming in [the]~~  
12 ~~neighboring states [and of], program exchange with other states, and implement~~  
13 ~~[any such] THE programs it deems advisable[.]; AND~~

14          (11)    ~~Make recommendations to the Board of Public Works concerning~~  
15 ~~appropriate aesthetic decorations, embellishments, accessories or ornamentation to~~  
16 ~~State projects, buildings and property.~~

17          (b)     ~~The Council shall publish an annual report and may publish other~~  
18 ~~material as it deems appropriate.~~

19 ~~2-608.~~

20          ~~[For purposes of] IN this subtitle, [the term] "the arts" [shall include]~~  
21 ~~INCLUDES [but not be limited to dance] DANCING, drama, music drama,~~  
22 ~~architecture, painting, sculpture, graphics, crafts, photography, design, film,~~  
23 ~~television and creative writing.~~

24 ~~2-609.~~

25          (a)     ~~In the course of exercising its powers and duties under this subtitle, the~~  
26 ~~Council shall avoid [any actions which] ACTION THAT would interfere with the~~  
27 ~~freedom of artistic expression or with the established or contemplated arts programs~~  
28 ~~in any community.~~

29          (b)     (1)     ~~The Council shall receive for its purposes and programs [such] funds~~  
30 ~~[as] THAT are provided to the Council in the State budget from time to time.~~

31          (2)     ~~Funds received as nonstate, nonfederal contributions for programs of~~  
32 ~~assistance to the arts may be treated as special funds which do not revert to the~~  
33 ~~General Fund at the end of a fiscal year.~~

~~Title 3. Division of Historical and Cultural Programs.~~

1

~~Subtitle 1. Division Established.~~

2

3 ~~3-101.~~

4 (a) ~~There is a Division of Historical and Cultural Programs [as an~~  
5 ~~organizational unit within] IN the Department of [Housing and Community~~  
6 ~~Development] TOURISM.~~

7 (b) ~~The Division of Historical and Cultural Programs includes:~~

8 (1) ~~The Commission on African American History and Culture;~~

9 (2) ~~The Commission on Indian Affairs;~~

10 (3) ~~The Maryland Historical Trust; and~~

11 (4) ~~The Historical and Cultural Museum Assistance Program.~~

12 ~~3-102.~~

13 (A) (1) ~~WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL~~  
14 ~~APPOINT A DIRECTOR OF THE DIVISION OF HISTORICAL AND CULTURAL PROGRAMS.~~

15 (2) ~~THE DIRECTOR SHALL HOLD OFFICE AT THE SECRETARY'S~~  
16 ~~PLEASURE.~~

17 (3) ~~WITH THE APPROVAL OF THE GOVERNOR, THE DIRECTOR MAY BE~~  
18 ~~REMOVED BY THE SECRETARY.~~

19 (4) ~~ANY REMOVAL BY THE SECRETARY IS FINAL AND NOT SUBJECT TO~~  
20 ~~ANY APPEAL.~~

21 (B) ~~THE DIRECTOR SHALL BE SELECTED BECAUSE OF KNOWN EXPERIENCE~~  
22 ~~AND INTEREST IN HISTORICAL AND CULTURAL PROGRAMS.~~

23 (C) ~~THE DIRECTOR SHALL OPERATE THE DIVISION UNDER THE DIRECTION OF~~  
24 ~~THE SECRETARY IN ACCORDANCE WITH THE PROVISIONS OF LAW.~~

~~Subtitle 2. Commission on African American History and Culture.~~

25

26 ~~3-201.~~

27 ~~IN THIS SUBTITLE, "COMMISSION" MEANS THE COMMISSION ON AFRICAN~~  
28 ~~AMERICAN HISTORY AND CULTURE.~~

1 ~~3-202.~~

2 ~~[The] THERE IS A Commission on African American History and Culture [is a~~  
3 ~~part of] IN the Department. [In this subtitle, it shall be referred to as the~~  
4 ~~"Commission".]~~

5 ~~3-203.~~

6 (a) (1) ~~The Commission shall consist of nine members appointed by the~~  
7 ~~Governor with the advice and consent of the Senate for terms of 4 years each.~~

8 (2) ~~The terms of members are staggered as required by the terms~~  
9 ~~provided for members of the Commission on July 1, 1985.~~

10 (b) ~~[Any] A Commissioner may be reappointed, except that [any] A~~  
11 ~~Commissioner who has served two consecutive 4-year terms may not be reappointed~~  
12 ~~until at least 1 year after the expiration of that Commissioner's prior [tenure] TERM.~~

13 (c) ~~If for any reason a Commissioner fails to serve or complete any term, the~~  
14 ~~Governor with the advice and consent of the Senate, shall appoint a successor to serve~~  
15 ~~for the remainder of the term.~~

16 (d) ~~The appointees shall:~~

17 (1) ~~[represent] REPRESENT the entire Maryland community[, and they~~  
18 ~~shall];~~

19 (2) ~~[have] HAVE knowledge of African American culture and history;~~

20 (3) ~~[be] BE sensitive to the problems of minority communities; and~~

21 (4) ~~[be] BE connected with agencies working to integrate minority~~  
22 ~~history and culture into the history of Maryland and our American culture.~~

23 (e) ~~The Commissioners shall elect annually a chairman and vice-chairman~~  
24 ~~from among the members of the Commission.~~

25 (f) ~~The Commission shall meet at [ the call of] TIMES DETERMINED BY the~~  
26 ~~chairman, a majority of the members, or the Secretary.~~

27 (g) ~~Members of the Commission shall receive no compensation for their~~  
28 ~~services, but they may be reimbursed for proper and necessary expenses incurred in~~  
29 ~~the discharge of their duties on the Commission in accordance with the Standard~~  
30 ~~State Travel Regulations.~~

31 ~~3-204.~~

32 ~~The Commission shall:~~

33 (1) ~~Initiate, direct, and coordinate projects that further the~~  
34 ~~understanding of African American history and culture;~~

1           (2)     Continue the survey of historic buildings, sites, artifacts, archives  
2 and repositories, and publish and disseminate these findings and information;

3           (3)     Plan, coordinate, and implement the State's annual official  
4 observance of the Martin Luther King, Jr. holiday, and receive and administer any  
5 available federal or private funds for the planning and execution of commemorative  
6 and educational activities in connection with the observance of the Martin Luther  
7 King, Jr. holiday;

8           (4)     Establish a center LOCATED IN ANNAPOLIS TO BE KNOWN AS THE  
9 BANNEKER DOUGLASS MUSEUM to house and display photographs, objects, oral  
10 history tapes, artifacts and other materials of African American historic and cultural  
11 significance [The center shall be located in Annapolis and be known as the  
12 Banneker Douglass Museum];

13          (5)     Locate, preserve and disseminate information to the public about  
14 significant buildings and sites relating to African American history and culture; and

15          (6)     Publish an annual report and any other material it deems necessary.  
16 ~~3-205.~~

17     The records, materials, personal property, files, moneys, credits and other assets  
18 and liabilities and obligations of the Maryland Commission on Negro History and  
19 Culture are [hereby] transferred to the Maryland Commission on African American  
20 History and Culture.

21 ~~3-206.~~

22     (a)     The Commission may seek funds from the federal government,  
23 foundations and private sources in addition to State funding.

24     (b)     The Commission may accept any gifts, grants, donations, bequests, or  
25 endowments for any purposes of the Commission.

26     (c)     (1)     If any funds received under subsection (a) or (b) of this section or any  
27 income derived from the operation of Banneker Douglass Museum or from  
28 educational materials and activities of the Commission are unexpended at the end of  
29 the fiscal year, the funds or income may not revert to the General Fund of the State,  
30 but instead, shall be maintained as special funds available to the Commission for  
31 carrying out the purposes of this subtitle.

32          (2)     Funds maintained under this subsection shall be subject to audit by  
33 the State, including by the Legislative Auditor.

34 ~~3-207.~~

35     (a)     The Commissioners, subject to the approval of the Secretary, shall appoint  
36 [from without their number] a director of the Commission [on African American  
37 History and Culture] WHO IS NOT A MEMBER OF THE COMMISSION.

1 (b) The director shall serve at the pleasure of the Commissioners, subject to  
 2 the concurrence of the Secretary, and shall be a special appointment in the State  
 3 Personnel Management System.

4 (c) Subject to the rules and policies set forth by the Commissioners and the  
 5 administrative supervision of the Secretary in accordance with [§§ 1-201, ] §§ 1-202,  
 6 1-203, 1-204, and 1-205 of this article, the director shall:

7 (1) ~~Be the chief administrative officer of the Commission;~~

8 (2) ~~Direct, administer, and supervise the activities of the Commission;~~  
 9 ~~and~~

10 (3) ~~Supervise the appointment and removal of personnel employed by~~  
 11 ~~the Commission.~~

12 ~~Subtitle 3. Commission on Indian Affairs.~~

13 ~~3-301.~~

14 ~~IN THIS SUBTITLE, "COMMISSION" MEANS THE COMMISSION ON INDIAN~~  
 15 ~~AFFAIRS.~~

16 ~~3-302.~~

17 ~~[The] THERE IS A Commission on Indian Affairs [is an agency] in the~~  
 18 ~~Department. [In this subtitle, it shall be referred to as the "Commission".]~~

19 ~~3-303.~~

20 (a) (1) ~~The Commission shall consist of nine members [appointed by the~~  
 21 ~~Governor, with the advice and consent of the Senate,].~~

22 (2) ~~OF THE NINE MEMBERS OF THE COMMISSION:~~

23 (I) ~~[a] A majority [of whom] shall be members of the native~~  
 24 ~~American Indian communities of this State[.]; and~~

25 (II) ~~[at] AT least 3 [of whom] shall be appointed from Indian~~  
 26 ~~communities that are indigenous to Maryland.~~

27 (3) ~~Each member of the Commission shall have a demonstrable~~  
 28 ~~knowledge of Indian culture and history, and be sensitive to the problems of the~~  
 29 ~~Indian communities.~~

30 (4) ~~The term of a member is 3 years.~~

31 (5) ~~At the end of a term, a member continues to serve until a successor is~~  
 32 ~~appointed and qualifies.~~

1 (6) A member who is appointed after a term has begun serves only for  
2 the rest of the term and until a successor is appointed and qualifies.

3 (7) A member may succeed himself, but may not serve more than 6 years  
4 consecutively.

5 (8) ~~THE GOVERNOR SHALL APPOINT THE MEMBERS WITH THE ADVICE~~  
6 ~~AND CONSENT OF THE SENATE.~~

7 ~~[(2)]~~ (9) (i) Each applicant shall submit, under oath or affirmation, a  
8 list of the applicant's qualifications, including:

9 1. The applicant's educational history;

10 2. The applicant's employment background or other relevant  
11 experience; and

12 3. In the case of an individual applying for appointment as  
13 an American Indian member of the Commission, documentation or proof of Indian  
14 tribe, band, group, or clan membership, under the sworn and notarized signature of  
15 the authorized custodian of the records of the membership rolls of the applicable  
16 Indian tribe, band, group, or clan.

17 (ii) The Governor may require the production of any other  
18 documents necessary to prove:

19 1. The standing or history of the Indian tribe, band, group, or  
20 clan of which an applicant claims membership; or

21 2. The qualifications of an individual applicant.

22 ~~[(3)]~~ (10) (i) ~~[Any] A person who, in any matter within the scope of this~~  
23 ~~section, knowingly and willfully falsifies or conceals, by any trick, scheme, or device,~~  
24 ~~a material fact, or makes any false, fictitious, or fraudulent statements or~~  
25 ~~representations, or makes or uses any false writing or document knowing the writing~~  
26 ~~or document contains any false, fictitious, or fraudulent statement or entry, is guilty~~  
27 ~~of a misdemeanor.~~

28 (ii) Except as otherwise provided by law, a person who violates this  
29 section is subject to ~~IMPRISONMENT NOT EXCEEDING 6 MONTHS OR~~ a fine [of] not  
30 ~~[more than] EXCEEDING \$1,000, or [imprisonment for not more than 6 months, or]~~  
31 ~~both.~~

32 (b) ~~Members of the Commission shall receive no compensation for their~~  
33 ~~services, but they may be reimbursed for proper and necessary expenses incurred in~~  
34 ~~the discharge of their duties on the Commission in accordance with the Standard~~  
35 ~~State Travel Regulations.~~

36 (c) The Commissioners shall elect annually a chairman and vice chairman  
37 from among the members of the Commission.

1       (d)       The Commission shall meet at ~~[the call of]~~ ~~TIMES DETERMINED BY~~ the  
2 chairman, a majority of the members, or the Secretary.

3 ~~3-304.~~

4       ~~The Commission shall:~~

5               (1)       ~~Initiate, direct, and coordinate projects [which] THAT further the~~  
6 ~~understanding of Indian history and culture;~~

7               (2)       ~~Conduct a survey of historic buildings, sites, artifacts, archives and~~  
8 ~~repositories, and publish and disseminate these findings and information;~~

9               (3)       ~~Undertake a comprehensive study of indigenous American Indian~~  
10 ~~tribes including but not limited to the Crees, Creeks, Cherokees, Chippewas,~~  
11 ~~Choptanks, Delawares, Haliwas, Lumbees, Nanticookes, Piscataways, Potomaes,~~  
12 ~~Rappahannoeks, Seminoles, Susquehannas, and Wicomicos, and their influence~~  
13 ~~[upon] ON Maryland history and culture;~~

14              (4)       ~~Study the status of all Indian groups, tribes and communities in the~~  
15 ~~State and assist them in obtaining recognition from the federal government;~~

16              (5)       ~~Study the economic and social needs of Indians in Maryland and~~  
17 ~~make recommendations for the alleviation of these needs;~~

18              (6)       ~~Locate, preserve and disseminate information to the public about~~  
19 ~~significant buildings and sites relating to Indian history and culture[, respectively];~~  
20 ~~and~~

21              (7)       ~~Publish an annual report and any other material it deems necessary.~~  
22 ~~3-305.~~

23       (a)       ~~The Commission may seek funds from the federal government,~~  
24 ~~foundations and private sources in addition to State funding.~~

25       (b)       ~~The Commission may accept any gifts, grants, donations, bequests, or~~  
26 ~~endowments for any purposes of the Commission.~~

27       (c)       (1)       ~~If any funds received under subsection (a) or (b) of this section or any~~  
28 ~~income and fees received by the Commission that are derived from educational~~  
29 ~~materials and activities of the Commission are unexpended at the end of the fiscal~~  
30 ~~year, the funds or income may not revert to the General Fund of the State, but~~  
31 ~~instead, shall be maintained as special funds available to the Commission for~~  
32 ~~carrying out the purposes of this subtitle.~~

33              (2)       ~~Funds maintained under this subsection shall be subject to audit by~~  
34 ~~the State, including by the Legislative Auditor.~~

1 ~~3-306.~~

2 (a) ~~The Commissioners, subject to the approval of the Secretary, shall~~  
 3 ~~appoint[, from without their number,] an administrator of the Commission WHO IS~~  
 4 ~~NOT A MEMBER OF THE COMMISSION.~~

5 (b) ~~The administrator shall serve at the pleasure of the Commissioners,~~  
 6 ~~subject to the concurrence of the Secretary, and shall be a special appointment in the~~  
 7 ~~State Personnel Management System.~~

8 (c) ~~Subject to the rules and policies set forth by the Commissioners and the~~  
 9 ~~administrative supervision of the Secretary in accordance with [ §§ 1-201, ] §§ 1-202,~~  
 10 ~~1-203, 1-204, and 1-205 of this article, the administrator shall:~~

11 (1) ~~Be the chief administrative officer of the Commission;~~

12 (2) ~~Direct, administer, and supervise the activities of the Commission;~~  
 13 ~~and~~

14 (3) ~~Supervise the appointment and removal of personnel employed by~~  
 15 ~~the Commission.~~

16 ~~3-307.~~

17 (a) ~~Subject to the approval of the Secretary, the Commission may establish a~~  
 18 ~~process by which a native American tribe, band, group, or clan which is indigenous to~~  
 19 ~~Maryland can apply to the Commission for formal recognition of Maryland Indian~~  
 20 ~~status.~~

21 (b) (1) ~~The Commission shall adopt regulations and procedures necessary to~~  
 22 ~~carry out the provisions of this section in accordance with the provisions of Title 10,~~  
 23 ~~Subtitle 1 of the State Government Article.~~

24 (2) ~~The regulations shall address the application process and~~  
 25 ~~genealogical standards, and shall specify the criteria which must be satisfied by a~~  
 26 ~~tribe, band, group, or clan applying for recognition.~~

27 (3) ~~The criteria shall be generally consistent with the criteria established~~  
 28 ~~by the U.S. Department of the Interior, Bureau of Indian Affairs, for tribal recognition~~  
 29 ~~by the United States of America, taking into account the special circumstances of~~  
 30 ~~American Indians indigenous to Maryland and shall include the following criteria:~~

31 (i) ~~The petitioning group has been identified from historical times~~  
 32 ~~until the present as "American Indian" or "aboriginal";~~

33 (ii) ~~The members of the petitioning group are descendants from a~~  
 34 ~~tribe that existed historically and is either indigenous to Maryland or derived from~~  
 35 ~~historical tribes indigenous to Maryland prior to 1790;~~

1 (iii) The members of the petitioning group are descendants of an  
2 Indian tribe that historically inhabited a specific area in Maryland prior to 1790;

3 (iv) The membership of the petitioning group is composed  
4 principally of persons who are not members of any other North American tribe, band,  
5 group, or clan; and

6 (v) ~~Any other criteria that the Commission considers necessary~~  
7 ~~through regulations adopted by the Commission.~~

8 (e) (1) ~~Upon the Commission's determination that a particular tribe, band,~~  
9 ~~group, or clan has met the requirements for recognition set forth in the regulations,~~  
10 ~~the Commission may recommend formal recognition to the Governor.~~

11 (2) ~~A Commissioner may not vote or participate [in any way] in the~~  
12 ~~deliberations [with respect to] CONCERNING any application for formal recognition of~~  
13 ~~Maryland Indian status made by an Indian tribe, band, group, or clan of which the~~  
14 ~~Commissioner is a member.~~

15 (d) (1) ~~If the Governor concurs with the Commission's recommendation, the~~  
16 ~~Governor may propose by executive order to provide formal recognition to the~~  
17 ~~particular tribe, band, group, or clan.~~

18 (2) ~~An executive order proposed to be promulgated under this subsection~~  
19 ~~shall first be presented to the Joint Committee on Administrative, Executive, and~~  
20 ~~Legislative Review for review by the members of the Committee.~~

21 (3) ~~The executive order shall take effect 30 days after submission to the~~  
22 ~~JOINT Committee ON ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW.~~

23 (e) (1) ~~The provisions of this section are not intended to create any rights of~~  
24 ~~ownership or other rights to land or to create any benefits or entitlements of any kind,~~  
25 ~~nor are they intended to impair valid existing rights, benefits, or entitlements~~  
26 ~~belonging to American Indians residing in the State.~~

27 (2) ~~The provisions of this section may not impair existing judicial rulings~~  
28 ~~of the State regarding Maryland's American Indians.~~

29 (3) ~~Prior to formal recognition of Maryland Indian status, members of~~  
30 ~~the petitioning group shall submit an affidavit renouncing all tribal rights of~~  
31 ~~ownership with respect to land in the State.~~

32 (f) ~~Any action or failure to take action by the Commission under this section~~  
33 ~~does not create a private cause of action under the laws of the State.~~

34 (g) (1) ~~Any person who, in any matter within the scope of this section,~~  
35 ~~knowingly and willfully falsifies or conceals, by any trick, scheme, or device, a~~  
36 ~~material fact, or makes any false, fictitious, or fraudulent statements or~~  
37 ~~representations, or makes or uses any false writing or document, knowing the writing~~

1 or document contains any false, fictitious, or fraudulent statement or entry, is guilty  
2 of a misdemeanor.

3 (2) Except as otherwise provided by law, a person who violates this  
4 section is subject to ~~IMPRISONMENT NOT EXCEEDING 6 MONTHS OR a fine [of] not~~  
5 ~~[more than] EXCEEDING \$1,000[, or imprisonment for not more than 6 months,] or~~  
6 ~~both.~~

7 (h) (1) ~~The provisions of this section may not be construed to create in the~~  
8 ~~Commission any power to establish criteria for membership in a tribe, band, group, or~~  
9 ~~clan.~~

10 (2) ~~[That] THE power TO ESTABLISH CRITERIA FOR MEMBERSHIP IN A~~  
11 ~~TRIBE, BAND, GROUP, OR CLAN is specifically reserved to the individual tribe, band,~~  
12 ~~group, or clan.~~

13 ~~Subtitle 4. Maryland Historical Trust.~~

14 ~~Part I. General Provisions.~~

15 ~~3-401.~~

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

17 (b) ~~"Associated funerary objects" means objects that, as a part of the death rite~~  
18 ~~or ceremony of a culture, are reasonably believed to have been placed with individual~~  
19 ~~human remains either at the time of death or later.~~

20 (c) ~~"Business entity" means, for purposes of [§§ 5-612] §§ 3-413 and [5-613]~~  
21 ~~3-414 of this subtitle, a corporation, association, partnership, joint venture, or other~~  
22 ~~legally organized entity.~~

23 (d) ~~"Cave" has the meaning set forth in § 5-1401 of the Natural Resources~~  
24 ~~Article and includes any naturally occurring void, cavity, recess, cavern, sinkhole,~~  
25 ~~grotto, rock shelter, or system of interconnecting passages beneath the surface of the~~  
26 ~~earth or within a cliff or ledge, including natural subsurface water and drainage~~  
27 ~~systems.~~

28 (e) ~~"Committee" means the Advisory Committee on Archaeology.~~

29 (f) ~~"Controls" means having rights pursuant to a lease, option contract, or~~  
30 ~~purchase contract.~~

31 (g) ~~"Council" means the Maryland Advisory Council on Historic Preservation.~~

32 (h) ~~"Director" means the Director of the Maryland Historical Trust.~~

33 (i) ~~"Embedded" means firmly affixed in submerged lands such that the use of~~  
34 ~~tools of excavation is required [in order] to move the bottom sediments to gain access~~  
35 ~~to the archaeological historic property [and any part thereof].~~

1 (j) "Financial assistance" means an action by the State or a State unit to  
2 award grants, loans, loan guarantees, or insurance to a public or private entity to  
3 finance, either in part or in whole, an undertaking.

4 (k) "Governor's Consulting Committee on the National Register of Historic  
5 Places" means the committee that reviews nominations to the National Register  
6 under the National Historic Preservation Act.

7 (l) "Historic property" means a district, site, building, structure, monument,  
8 or object significant in the prehistory, history, upland and underwater archeology,  
9 architecture, engineering, and culture of the State, including artifacts, records, and  
10 remains related to a district, site, building, structure, or object.

11 (m) "Human remains" means any part of the body of a deceased human being  
12 in any state of decomposition.

13 (n) "Local jurisdiction" means, for purposes of [ §§ 5-612] §§ 3-413 and  
14 [5-613] 3-414 of this subtitle, any of the 23 counties of the State, the City of  
15 Baltimore, any municipal corporation in Maryland subject to the provisions of Article  
16 XI E of the Maryland Constitution, and any duly authorized agency or  
17 instrumentality of the local jurisdiction.

18 (o) "MHT Grant Fund" means the Historic Preservation and Historical and  
19 Cultural Museum Assistance Grant Fund of the Trust created under [ § 5-613] §  
20 3-414 of this subtitle.

21 (p) "MHT Grant Program" means the Historic Preservation Grant Program of  
22 the Trust created [ pursuant to § 5-613] UNDER § 3-414 of this subtitle.

23 (q) "MHT Loan Fund" means the Historic Preservation Loan Fund of the  
24 Trust created under [ § 5-612] § 3-413 of this subtitle.

25 (r) "MHT Loan Program" means the Historic Preservation Loan Program of  
26 the Trust created [ pursuant to § 5-612] UNDER § 3-413 of this subtitle.

27 (s) "Native American" means a person, or a descendant of a person, who  
28 inhabited North America prior to European contact.

29 (t) "Nonprofit organization" means, for purposes of [ §§ 5-612] §§ 3-413 and  
30 [5-613] 3-414 of this subtitle, a corporation, foundation, governmental entity, or  
31 other legal entity, THAT HAS no part of the net earnings [of which inure] INURING to  
32 the benefit of [any] A private shareholder or individual holding an interest in [such]  
33 THE entity.

34 (u) "Permittee" means [any] A person [or entity] authorized and given the  
35 exclusive right by the Maryland Historical Trust to excavate or disturb a submerged  
36 archaeological historic property under the provisions of [ § 5-620] § 3-422 of this  
37 subtitle.

1 (v) "Preservation" means the identification, evaluation, recordation,  
 2 documentation, curation, acquisition, protection, management, rehabilitation,  
 3 restoration, stabilization, maintenance, and reconstruction of a historic property.

4 (w) "State Historic Preservation Officer" means the individual who  
 5 administers the State Historic Preservation Program under the provisions of the  
 6 National Historic Preservation Act of 1966.

7 (x) "State unit" has the meaning set forth in Title 11 of the State Government  
 8 Article.

9 (y) "Submerged" means beneath or substantially beneath the territorial  
 10 waters of the State.

11 (z) "Submerged archaeological historic property" means any site, structure,  
 12 object, or remains which:

13 (1) Yields or is likely to yield information of significance to the scientific  
 14 study of human prehistory, history, or culture; and

15 (2) (i) Is embedded in submerged lands and has remained unclaimed  
 16 for 100 years or longer; or

17 (ii) Is included in or has been determined eligible for inclusion in  
 18 the National Register of Historic Places.

19 (aa) "Terrestrial" means relating to any and all lands above the mean high tide  
 20 line and above all nontidal waters.

21 (bb) "Trust" or "MHT" means the Maryland Historical Trust.

22 (cc) "Undertaking" means a project that involves or may lead to building  
 23 construction, building alteration, or land disturbance.

24 3-402.

25 The General Assembly finds that:

26 (1) Historic properties significant to the State's heritage are being lost or  
 27 substantially altered, often inadvertently, with increasing frequency;

28 (2) Once historic properties are lost or destroyed, a vital part of our  
 29 community life and development cannot be replaced;

30 (3) Preservation of the State's heritage is in the public interest so that  
 31 present and future generations may be enriched by the cultural, educational,  
 32 inspirational, social, and economic benefits of the past;

33 (4) Increased knowledge of our historic resources, establishment of  
 34 better means of identifying and administering them, and encouragement of their  
 35 preservation will assist the economic and cultural growth of this State; and

1           (5)     The State's heritage has been enriched by past accomplishments and  
2 contributions of the State's private preservation organizations and their continuing  
3 activities are in the public interest.

4 ~~3-403.~~

5     The Maryland Historical Trust is ~~[hereby]~~ created as an instrumentality of the  
6 State of Maryland as part of the Department for the purpose of preserving, protecting,  
7 and enhancing districts, sites, buildings, structures, and objects significant in the  
8 prehistory, history, upland and underwater archeology, architecture, engineering, and  
9 culture of the State, to encourage others to do so and to promote interest in and study  
10 of ~~[such]~~ THOSE matters.

11 ~~3-404.~~

12     (A)     The purpose of the Trust is ~~[declared]~~ to ~~[be of general]~~ benefit ~~[to]~~ the  
13 citizens of the State and ~~BE~~ charitable in nature.

14     (B)     The Trust shall be a body corporate and shall have perpetual existence,  
15 subject to modification by the General Assembly of the State if ~~[the same is]~~  
16 necessary to effectuate the purpose of the Trust and subject to termination by the  
17 General Assembly ~~[when and]~~ if its substantial purpose ceases.

18 ~~3-405.~~

19     (A)     (1)     The powers and duties of the Trust shall vest in and be exercised by  
20 a body of fifteen trustees.

21           (2)     The Governor of the State, the President of the Senate of the General  
22 Assembly and the Speaker of the House of Delegates of the General Assembly shall be  
23 by virtue of their offices three of the trustees with the same powers and duties as the  
24 other trustees as ~~[hereafter set forth]~~ PROVIDED IN THIS SECTION.

25           (3)     (I)     The three ex officio trustees may delegate from time to time any  
26 or all of their powers or duties to an authorized representative~~[,]~~.

27                   (II)     ~~[the]~~ THE Governor's representative ~~[to]~~ SHALL be a member  
28 of the Executive Department of the State of Maryland ~~[and]~~.

29                   (III)     ~~[the]~~ THE representatives of the President of the Senate and  
30 the Speaker of the House ~~[to]~~ SHALL be a member of the Senate and the House of  
31 Delegates, respectively.

32           (4)     The remaining twelve trustees shall be appointed by the Governor  
33 with the advice and consent of the Senate.

34     (B)     (1)     ~~[However, a]~~ A minimum of two trustees shall be qualified with an  
35 advanced degree in archaeology or a closely related field, and shall have experience in  
36 the field of archaeology.

1           (2)     Of the trustees qualified in the field of archaeology, at least one must  
2 have experience in the field of submerged archaeology and at least one must have  
3 experience in the field of terrestrial archaeology.

4     (C)     (1)     The term of a member is 4 years.

5           (2)     The terms of members are staggered as required by the terms  
6 provided for members of the board on July 1, 1985.

7           (3)     In the event that a trustee for any reason fails to serve or to complete  
8 any appointed or elected term, a successor shall be appointed by the Governor for the  
9 remainder of such term.

10     (D)     [Selection of] THE trustees [whether by delegation or appointment with  
11 the advice and consent of the Senate] should REFLECT [be such as to obtain a broad]  
12 THE [geographical distribution of trustees throughout] GEOGRAPHIC DIVERSITY OF  
13 THE POPULATION OF the State [insofar as is practicable and consistent with the  
14 purpose of the Trust].

15 ~~3-406.~~

16     The trustees shall serve without compensation, but each trustee shall be  
17 reimbursed for expenses incurred while [actually] engaged in the performance of  
18 their duties in accordance with the Standard State Travel Regulations as provided in  
19 the State budget.

20 ~~3-407.~~

21     (a)     In addition to the powers set forth elsewhere in this subtitle, the Trust  
22 may:

23           (1)     [Adopt rules and] ADOPT regulations to carry out the provisions of  
24 this subtitle;

25           (2)     Take any legal action necessary to enforce the provisions of this  
26 subtitle;

27           (3)     Adopt and use an official seal;

28           (4)     Contract for consultant or other services;

29           (5)     Apply for and accept any fund, grant, or loan from any federal, State,  
30 local, or private source;

31           (6)     Make an agreement with a prospective mortgagor or grantee for  
32 financial assistance to a historic preservation project;

33           (7)     Acquire and hold real and personal historic property by gift,  
34 purchase, devise, bequest, or any other means;

- 1           (8)     Acquire or take assignment of a note, mortgage, or other form of  
2 security and evidence of indebtedness;
- 3           (9)     Acquire, attach, accept, or take title to a historic property by  
4 conveyance or, if a mortgage is in default, by foreclosure;
- 5           (10)    Sell, convey, assign, lease, or otherwise transfer or dispose of any  
6 property held by it;
- 7           (11)    Enter into any contract, lease, or other agreement that is necessary  
8 or incidental to the performance of its duties;
- 9           (12)    Preserve, restore, rehabilitate, reconstruct, protect, document,  
10 excavate, salvage, exhibit, and interpret historic properties;
- 11          (13)    Accept any gift, legacy, bequest, and endowment for any purpose of  
12 the Trust and unless [otherwise] specified by the donor expend both principal and  
13 income of any gift, bequest, legacy, or endowment in furtherance of the Trust or invest  
14 it, with consent of the State Treasurer, in whole or in part in general obligations of the  
15 State, or other securities;
- 16          (14)    Apply any money, asset, property, or other thing of value it may  
17 receive as incident to its operation, to the general purposes of the Trust; and
- 18          (15)    Delegate any of its powers to [1] ONE or more of the trustees or the  
19 Director.
- 20   (b)     In addition to the duties set forth elsewhere in this subtitle, the Trust  
21 shall:
- 22          (1)     In cooperation with federal and State agencies, including the  
23 Department of Natural Resources, local governments, and private organizations and  
24 individuals, direct and conduct a comprehensive statewide survey of historic  
25 properties;
- 26          (2)     Maintain an inventory and register of historic properties;
- 27          (3)     Document, research, record, and evaluate the significance of historic  
28 properties;
- 29          (4)     Prepare and implement comprehensive statewide and regional  
30 historic preservation plans;
- 31          (5)     Assist local governments in the development of local historic  
32 preservation plans and programs;
- 33          (6)     Carry out programs and activities to protect, preserve, and encourage  
34 the preservation of historic properties in the State;
- 35          (7)     Preserve and administer historic properties acquired and held by the  
36 Trust;

1           (8)     Cooperate with federal and State agencies, local governments, and  
2 private entities to ensure that historic properties are taken into consideration at all  
3 levels of planning and development;

4           (9)     Review the policies and programs of each unit of the State  
5 government that affect historic properties and recommend methods to improve the  
6 effectiveness and coordination of these policies and programs consistent with this  
7 subtitle;

8           (10)    Administer programs of financial and technical assistance for  
9 historic preservation projects;

10          (11)    Make recommendations on the certification and eligibility of historic  
11 properties for tax incentives and other programs of public assistance;

12          (12)    Provide public information, education, and training relating to  
13 historic preservation;

14          (13)    Encourage public interest and participation in historic preservation;

15          (14)    Advise and assist the State Historic Preservation Officer on matters  
16 relating to the implementation of the officer's responsibilities;

17          (15)    Advise the Governor and General Assembly on matters relating to  
18 historic preservation; and

19          (16)    Submit annually to the Governor and, subject to § 2-1246 of the State  
20 Government Article, to the General Assembly a report of its activities during the  
21 preceding year together with any recommendations for actions that, in the judgment  
22 of the Trust are necessary and appropriate to further the purposes of the Trust.

23        (e)     (1)     ~~Except as otherwise may be provided in this subtitle, any income and~~  
24 ~~fees received by the Trust that are unexpended at the end of a fiscal year may not~~  
25 ~~revert to the General Fund of the State, but instead, shall be maintained as special~~  
26 ~~funds available to the Trust for carrying out the purposes of this subtitle.~~

27           (2)     ~~The income and fees referred to in paragraph (1) of this subsection~~  
28 ~~include, without limitation, fees authorized under this subtitle and income from~~  
29 ~~educational and other preservation materials, activities, and services of the Trust.~~

30           (3)     ~~Funds maintained under this subsection shall be subject to audit by~~  
31 ~~the State, including by the Legislative Auditor.~~

32 ~~§ 408.~~

33        (A)     (1)     ~~Annually, from among their members, the trustees shall elect a~~  
34 ~~chairman, a vice chairman, and a treasurer.~~

35           (2)     ~~The manner of election of officers shall be determined by the trustees.~~

1     ~~(B)~~     ~~(1)~~     The trustees shall meet at places and dates to be determined by the  
2 trustees not less than two times a year.

3             ~~(2)~~     Special meetings shall be called by the Director upon order of the  
4 chairman on the chairman's own initiative and must be called by the Director at the  
5 request of four or more trustees.

6             ~~(3)~~     All trustees shall be notified by the Director in writing of the time  
7 and place of all meetings at least seven days in advance of such meeting, except that  
8 meetings may be held on shorter notice if all trustees shall agree.

9     ~~(C)~~     Eight trustees shall constitute a quorum.

10 ~~3-409.~~

11     ~~(a)~~     With the approval of the Governor, the trustees shall appoint a Director,  
12 who is chief administrative officer of the Trust.

13     ~~(b)~~     The Director shall:

14             ~~(1)~~     Be knowledgeable in architecture, history, archeology, or other  
15 appropriate discipline relating to historic preservation; and

16             ~~(2)~~     Possess experience in historic preservation activities or related fields.

17     ~~(c)~~     The Director shall serve at the pleasure of the trustees and may be  
18 removed with the concurrence of the Governor.

19     ~~(d)~~     The Director is entitled to the salary provided in the State budget and may  
20 employ staff in accordance with the State budget.

21     ~~(e)~~     Positions with the Trust are special appointments in the State Personnel  
22 Management System.

23     ~~(f)~~     Under direction of the trustees, the Director shall perform the duties and  
24 functions prescribed by the trustees.

25 ~~3-410.~~

26     The trustees may request, and [upon] ON request shall receive from the  
27 Attorney General of the State, all legal counsel and services necessary to carry out the  
28 purpose of the Trust.

29 ~~3-411.~~

30     ~~(a)~~     The Trust may not dispose of any property transferred by the State to the  
31 Trust or purchased with funds paid by the State without the approval of the Board of  
32 Public Works.

33     ~~(b)~~     The Trust may not sell, convey, assign, or lease any property held by it  
34 solely for the purpose of investment.

1 (e) Before selling or conveying any real or personal property listed in or  
2 eligible for the Maryland Register of Historic Properties, the Trust shall:

3 (1) Ensure that the proposed disposition provides for the preservation or  
4 enhancement of the property; and

5 (2) Give preference to acquisition proposals made by local governments  
6 or capable private nonprofit organizations qualifying under § 501(c)(3) of the Internal  
7 Revenue Code that provide for:

8 (i) The use most compatible with the historic or architectural value  
9 of the property; and

10 (ii) Uses which have greatest opportunity for public involvement,  
11 participation, education, and enjoyment; and

12 (3) Provide a 6 month option to purchase to entities that meet the  
13 requirements of paragraph (2) of this subsection, and that propose to purchase at the  
14 State established appraised fair market value.

15 (d) Unless expressly provided for, a lease made by the Trust may not be  
16 subject to redemption at the option of the tenant.

17 3-412.

18 (a) All submerged archaeological historic property located on or recovered  
19 from submerged lands over which the State has sovereign control is the property of  
20 the State.

21 (b) Title to submerged archaeological historic property, or a portion thereof,  
22 located on or recovered from submerged lands over which the State has sovereign  
23 control may be conveyed by the State to a permittee pursuant to a permit issued by  
24 the Trust under [§ 5-620] § 3-422 of this subtitle, if such a permit is approved by the  
25 Board of Public Works in accordance with the applicable provisions of Title 10,  
26 Subtitle 3 of the State Finance and Procurement Article of the Code.

27 (c) (1) The Trust may enter into agreements with permittees for the  
28 disposition of recovered submerged archaeological historic property.

29 (2) The disposition may include division of the recovered property with  
30 the permittee.

31 (3) Subject to the approval of the Board of Public Works, the division  
32 may be in value or in kind, with the Trust acting as arbiter of the division in the best  
33 interest of the State and giving due consideration to the fair treatment of the  
34 permittee. Any agreement entered into by the Trust, however, shall provide for the  
35 permittee to receive reasonable compensation for any recovered submerged  
36 archaeological historic property claimed and turned over to the State.

1 ~~3-413.~~

2 (a) ~~There is a Historic Preservation Loan Program of the Trust, known as the~~  
3 ~~MHT Loan Program.~~

4 (b) ~~The purpose of the MHT Loan Program is to implement and encourage the~~  
5 ~~preservation of historic properties.~~

6 (c) ~~The Trust shall:~~

7 (1) ~~Manage, supervise, and administer the MHT Loan Program; and~~

8 (2) ~~Coordinate the MHT Loan Program with federal or State programs~~  
9 ~~that complement or facilitate carrying out the MHT Loan Program.~~

10 (d) ~~The MHT Loan Fund may be used for the following purposes:~~

11 (1) ~~To make loans to nonprofit organizations, local jurisdictions, business~~  
12 ~~entities, and individuals for the purpose of:~~

13 (i) ~~Acquiring, rehabilitating, or restoring historic properties; or~~

14 (ii) ~~Short-term financing for costs directly related to work required~~  
15 ~~or recommended by the Trust or the State Historic Preservation Officer to be~~  
16 ~~undertaken before proceeding with or continuing a construction project in the State~~  
17 ~~being funded with federal or State moneys, which may include the costs of studies,~~  
18 ~~surveys, plans and specifications, and architectural, engineering, or other special~~  
19 ~~services;~~

20 (2) ~~To cover administrative costs directly related to the MHT Loan~~  
21 ~~Program;~~

22 (3) ~~To fund the purchase or acquisition by the Trust of historic properties~~  
23 ~~or partial interests in historic properties for use in accordance with the Trust's~~  
24 ~~authorized purposes or for resale or lease subject to appropriate preservation~~  
25 ~~covenants; and~~

26 (4) ~~To fund the costs of restoration or rehabilitation of historic properties~~  
27 ~~owned by the Trust for use in accordance with the Trust's authorized purposes or for~~  
28 ~~resale or lease subject to appropriate preservation covenants, which may include costs~~  
29 ~~directly related to restoration or rehabilitation such as the cost of studies, surveys,~~  
30 ~~plans and specifications, and architectural, engineering, or other special services.~~

31 (e) ~~The trustees shall review and make recommendations to the Secretary~~  
32 ~~who shall approve each loan or expenditure of moneys from the MHT Loan Fund.~~

33 (f) (1) ~~For each loan, with the approval of the Secretary and in accordance~~  
34 ~~with the regulations, the Trust may set:~~

35 (i) ~~The the principal amount;~~

- 1 (ii) The maturity;
- 2 (iii) The repayment terms; and
- 3 (iv) The interest rate, which:
- 4 1. ~~Must comply with federal regulations governing the~~  
5 ~~borrowing of moneys by the State, if applicable; and~~
- 6 2. ~~May be at a preferred rate in relation to rates for similar~~  
7 ~~loans made at the time under the MHT Loan Program if:~~
- 8 A. ~~The recipient is a nonprofit organization or a local~~  
9 ~~jurisdiction; or~~
- 10 B. ~~[Upon] ON conclusion of any scheduled restoration or~~  
11 ~~rehabilitation of the historic property, it will be occupied in whole or in part by~~  
12 ~~individuals or families of limited income as determined by the Secretary [under §~~  
13 ~~2-203 of this article].~~
- 14 ~~(2) (i) Loans made under the MHT Loan Program may be secured by~~  
15 ~~mortgage liens, which may be subordinate to other mortgage liens, guarantees of~~  
16 ~~repayment, or other forms of collateral acceptable to the Trust.~~
- 17 (ii) ~~Without approval or execution by the Board of Public Works, the~~  
18 ~~Trust may take title to a mortgaged property by foreclosure or by deed in lieu of~~  
19 ~~foreclosure, and thereafter:~~
- 20 1. ~~Convey title to a buyer; and~~
- 21 2. ~~Obtain and seek enforcement of a deficiency judgment.~~
- 22 ~~(3) Loans to individuals and business entities may be made only if~~  
23 ~~private financing cannot otherwise be obtained as shown by documentation in~~  
24 ~~accordance with the regulations.~~
- 25 (g) The Trust shall:
- 26 (1) ~~Ensure that funding under the MHT Loan Program for the~~  
27 ~~acquisition, restoration, or rehabilitation of historic properties is utilized only if the~~  
28 ~~property has been listed in or is eligible for the Maryland Register of Historic~~  
29 ~~Properties; and~~
- 30 (2) ~~Require recipients of loans made under the MHT Loan Program to~~  
31 ~~enter into an agreement to preserve and maintain the historic property, which~~  
32 ~~agreement shall be a recordable historic preservation easement if the property is~~  
33 ~~historic real property, unless the Secretary has determined that [such an] THE~~  
34 ~~agreement or easement is impracticable or infeasible under the circumstances in~~  
35 ~~accordance with the regulations.~~

1 (h) (1) The Department shall adopt regulations to carry out the purposes of  
2 the MHT Loan Program.

3 (2) In addition to provisions otherwise required by this section, the  
4 regulations shall include the following:

5 (i) Application procedures;

6 (ii) Procedures for adequate public notice of available assistance  
7 under the MHT Loan Program;

8 (iii) Provisions for the review of plans and specifications and the  
9 inspection of projects during construction; and

10 (iv) [A set of selection] SELECTION criteria which the Trust must  
11 consider in recommending approval of applications for loans and which must include:

12 A. The relative historical or cultural significance of, and  
13 urgency of need for, the project being financed with the loan;

14 B. The extent to which there is any proposed contribution by  
15 the appropriate local jurisdiction to support the project being financed with the loan;  
16 and

17 C. Other RELEVANT factors [that may be relevant, such as]  
18 INCLUDING the geographic distribution of loan assistance from the MHT Loan Fund.

19 (i) (1) The Secretary shall submit loans or expenditures from the MHT  
20 Loan Fund which were financed through the sale of State general obligation bonds to  
21 the Board of Public Works for approval to the extent required by regulations  
22 promulgated by the Secretary and approved by the Board of Public Works.

23 (2) Except for expenditures under paragraphs (3) and (4) of subsection  
24 (d) of this section, loans or expenditures from the MHT Loan Fund shall not otherwise  
25 be subject to the provisions of Titles 4 and 5 of the State Finance and Procurement  
26 Article of the Code.

27 (j) (1) The MHT Loan Program shall operate as a continuing, nonlapsing,  
28 special fund known as the MHT Loan Fund, that consists of:

29 (i) Moneys appropriated by the State to the MHT Loan Program;

30 (ii) Any moneys received from the sale of State general obligation  
31 bonds;

32 (iii) Moneys received from other public or private sources;

33 (iv) Repayments of principal and interest on loans made under the  
34 MHT Loan Program, or, prior to July 1, 1989, under the Capital Revolving Fund for  
35 Historic Preservation;

1                   (v)       The moneys contained in the Capital Revolving Fund for  
2 Historic Preservation which shall be transferred to the MHT Loan Fund as of June  
3 30, 1989; and

4                   (vi)       The proceeds from the resale or lease of any properties  
5 originally acquired by the Trust with moneys from the MHT Loan Fund or the Capital  
6 Revolving Fund for Historic Preservation prior to July 1, 1989.

7                   (2)       ~~The State Treasurer shall hold and the State Comptroller shall~~  
8 ~~account for the MHT Loan Fund.~~

9                   (3)       ~~The MHT Loan Fund shall be invested and reinvested in the same~~  
10 ~~manner as other State funds.~~

11                   [(3)]     (4)       ~~The MHT Loan Fund is a special fund within the meaning of §~~  
12 ~~10-306 of the State Finance and Procurement Article of the Code.~~

13                   [(4)]     (5)       ~~On or before December 31 of each year, the Trust shall report to~~  
14 ~~the Governor and, subject to § 2-1246 of the State Government Article, to the General~~  
15 ~~Assembly the financial status of the MHT Loan Program and a summary of its~~  
16 ~~operations for the preceding fiscal year.~~

17                   (k)     (1)       ~~A person may not knowingly make or cause to be made any material~~  
18 ~~misstatement of fact, including an understatement or overstatement of financial~~  
19 ~~condition, in a statement or report in or regarding an application for a loan or~~  
20 ~~affecting a loan already made.~~

21                   (2)       ~~[Any] A person who violates [any provision of] this subsection is~~  
22 ~~guilty of a misdemeanor and on conviction is subject to IMPRISONMENT NOT~~  
23 ~~EXCEEDING 2 YEARS OR a fine not exceeding \$5,000 [or imprisonment not exceeding~~  
24 ~~2 years] or both.~~

25 ~~3-414.~~

26                   (a)       ~~There is a Historic Preservation Grant Program of the Trust, known as the~~  
27 ~~MHT Grant Program.~~

28                   (b)       ~~The purpose of the MHT Grant Program is to implement and encourage~~  
29 ~~the preservation of historic properties as well as promote interest in and study of such~~  
30 ~~matters.~~

31                   (e)       ~~The Trust shall:~~

32                   (1)       ~~Manage, supervise, and administer the MHT Grant Program; and~~

33                   (2)       ~~Coordinate the MHT Grant Program with federal or State programs~~  
34 ~~that complement or facilitate carrying out the MHT Grant Program.~~

35                   (d)       ~~The MHT Grant Fund may be used for the purposes set forth in [§ 5-705]~~  
36 ~~§ 3-505 of this article and for the following purposes:~~

1           (1)     To make grants to nonprofit organizations, local jurisdictions,  
2 business entities, and individuals for the purpose of acquiring, rehabilitating, or  
3 restoring historic properties;

4           (2)     To make grants to nonprofit organizations and local jurisdictions for  
5 the purpose of financing costs directly related to a rehabilitation or restoration  
6 project, which may include the costs of studies, surveys, plans and specifications, and  
7 architectural, engineering, or other special services;

8           (3)     To make grants to nonprofit organizations and local jurisdictions for  
9 the purpose of funding historic preservation education and promotion, including the  
10 research, survey, and evaluation of historic properties and the preparation of historic  
11 preservation planning documents and educational materials;

12          (4)     To fund the purchase or acquisition by the Trust of historic properties  
13 or partial interests in historic properties for use in accordance with the Trust's  
14 authorized purposes or for resale or lease subject to appropriate preservation  
15 covenants;

16          (5)     To fund the costs of restoration or rehabilitation of historic properties  
17 owned by the Trust for use in accordance with the Trust's authorized purposes or for  
18 resale or lease subject to appropriate preservation covenants, [which may include]  
19 INCLUDING costs directly related to restoration or rehabilitation such as the costs of  
20 studies, surveys, plans and specifications, and architectural, engineering, or other  
21 special services; and

22          (6)     To fund historic preservation education and promotion by the Trust,  
23 including the research, survey, and evaluation of historic properties and the  
24 preparation of historic preservation planning documents and educational materials.

25       (e)     (1)     The trustees shall review and make recommendations to the  
26 Secretary who shall approve each grant or expenditure of moneys from the MHT  
27 Grant Fund.

28           (2)     Except for the emergency reserve allocation referred to in paragraph  
29 (3) of this subsection, the trustees' recommendations to the Secretary on the granting  
30 of moneys from the MHT Grant Fund to nonprofit organizations, local jurisdictions,  
31 business entities, and individuals shall be based upon a competitive selection process.

32           (3)     In any fiscal year, the Secretary may allocate up to 20 percent of the  
33 total moneys available in the MHT Grant Fund to be held in reserve for unanticipated  
34 emergency use in accordance with subsection (d) of this section.

35           (4)     Grants to business entities may not exceed more than 10 percent of  
36 all grants made by the Trust under this section.

37       (f)     The Trust shall:

38           (1)     Ensure that funding under the MHT Grant Program for the  
39 acquisition, restoration, or rehabilitation of historic properties is utilized only if the

1 property has been listed in or is eligible for the Maryland Register of Historic  
2 Properties; and

3           (2)       Require recipients of grants made under the MHT Grant Program to  
4 enter into an agreement to preserve and maintain the historic property, which  
5 agreement shall be a recordable historic preservation easement if the property is  
6 historic real property, unless the Secretary has determined that such an agreement or  
7 easement is impracticable or infeasible under the circumstances in accordance with  
8 the regulations.

9           (g)       (1)       The Department shall adopt regulations to carry out the purposes of  
10 the MHT Grant Program.

11           (2)       In addition to provisions otherwise required by this section, the  
12 regulations shall include [the following]:

13                   (i)       Application procedures;

14                   (ii)       Procedures for adequate public notice of available assistance  
15 under the MHT Grant Program;

16                   (iii)       Provisions for the review of plans and specifications and the  
17 inspection of projects during construction; and

18                   (iv)       A set of selection criteria which the Trust must consider in  
19 recommending approval of applications for grants and which must include:

20                               1.       The relative historical or cultural significance of, and  
21 urgency of need for, the project being financed with the grant;

22                               2.       The extent to which there is any proposed contribution by  
23 the appropriate local jurisdiction to support the project being financed with the grant;  
24 and

25                               3.       Other RELEVANT factors [that may be relevant, such a]  
26 INCLUDING the geographic distribution of grant assistance from the MHT Grant  
27 Fund.

28           (h)       (1)       The Secretary shall submit grants or expenditures from the MHT  
29 Grant Fund which were financed through the sale of State general obligation bonds to  
30 the Board of Public Works for approval to the extent required by regulations  
31 promulgated by the Secretary and approved by the Board of Public Works.

32           (2)       Except for expenditures under paragraphs (4) and (5) of subsection  
33 (d) of this section, grants or expenditures from the MHT Grant Fund shall not  
34 otherwise be subject to the provisions of Titles 4 and 5 of the State Finance and  
35 Procurement Article of the Code.

1 (i) (1) There is a Historic Preservation and Historical and Cultural Museum  
 2 Assistance Grant Fund known as the MHT Grant Fund, which is a continuing,  
 3 nonlapsing, special fund that consists of:

4 (i) Moneys appropriated by the State to the MHT Grant Program  
 5 or the Historical and Cultural Museum Assistance Program established under [~~§~~  
 6 ~~5-703~~] ~~§ 3-503~~ of this article;

7 (ii) Any moneys received from the sale of State general obligation  
 8 bonds;

9 (iii) Moneys received from other public or private sources;

10 (iv) The moneys contained in the Capital Grant Fund for Historic  
 11 Preservation which shall be transferred to the MHT Grant Fund as of June 30, 1989;  
 12 and

13 (v) The proceeds from the resale or lease of any properties  
 14 originally acquired by the Trust with moneys from the MHT Grant Fund or the  
 15 Capital Grant Fund for Historic Preservation prior to July 1, 1989.

16 (2) The State Treasurer shall hold and the State Comptroller shall  
 17 account for the MHT Grant Fund.

18 (3) The MHT Grant Fund shall be invested and reinvested in the same  
 19 manner as other State funds.

20 ~~[(3)]~~ (4) On or before December 31 of each year, the Trust shall report to  
 21 the Governor and, subject to § 2-1246 of the State Government Article, to the General  
 22 Assembly the financial status of the MHT Grant Program and the Historical and  
 23 Cultural Museum Assistance Program established under [~~§ 5-703~~] ~~§ 3-503~~ of this  
 24 article and a summary of their operations for the preceding fiscal year.

25 ~~[(4)]~~ (5) The MHT Grant Fund is a special fund within the meaning of §  
 26 ~~10-306~~ of the State Finance and Procurement Article of the Code.

27 (j) (1) A person may not knowingly make or cause to be made any material  
 28 misstatement of fact, including an understatement or overstatement of financial  
 29 condition, in a statement or report in or regarding an application for a grant or  
 30 affecting a grant already made.

31 (2) ~~[Any]~~ A person who violates ~~[any provision of]~~ this subsection is  
 32 guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or  
 33 imprisonment not exceeding 2 years or both.

34 ~~3-415.~~

35 (a) In this section, "Fund" means the Historic Marker Program Fund.

1 (b) There is a Historic Marker Program Fund for the purpose of producing and  
2 installing historic markers at sites of statewide historical significance.

3 (c) The Trust shall administer the Fund.

4 (d) (1) The Trust may expend money from the Fund to produce and install  
5 historic markers at sites determined by the Trust to possess statewide historical  
6 significance:

7 (i) If the site is on State-owned land; or

8 (ii) If the site is on nonstate-owned land and one half of the cost of  
9 producing and installing the historic marker is provided from nonstate sources.

10 (2) Historic markers produced and installed under this section shall be  
11 property of the State.

12 (e) (1) The Trust shall approve:

13 (i) The form and text of historic markers established under this  
14 section; and

15 (ii) Except as provided in paragraph (2) of this subsection, the  
16 location of historic markers established under this section.

17 (2) The unit of State or local government responsible for operation and  
18 maintenance of public highway and street rights-of-way shall approve the location  
19 and manner of installation of historic markers on public highway and street  
20 rights-of-way.

21 (f) The Fund shall consist of:

22 (1) Funds authorized in the State budget;

23 (2) Funds recovered by the State for the replacement of damaged or  
24 destroyed historic markers; and

25 (3) Funds from any other source.

26 ~~3-416.~~

27 (a) In this section, "Fund" means the Lighthouse Preservation Special Fund.

28 (b) There is a Lighthouse Preservation Special Fund in the Department.

29 (c) (1) The Lighthouse Preservation Special Fund is a continuing,  
30 nonlapsing, revolving fund to be maintained by the State Treasurer.

31 (2) The State Treasurer shall hold and the State Comptroller shall  
32 account for the Fund.

1           ~~[(2)]~~ (3)     The Fund shall be invested and reinvested~~[- Any]~~ AND ANY  
2 interest or other investment earnings of the Fund shall be credited and paid into the  
3 Fund.

4           ~~[(3)]~~ (4)     If cash is received as consideration for the disposition of a  
5 capital asset purchased with funds from ~~[this special fund]~~ THE FUND, ~~[that]~~ THE  
6 cash shall be applied to the ~~[special fund]~~ FUND as provided by § 10-306(e)(2) of the  
7 State Finance and Procurement Article.

8           ~~[(4)]~~ (5)     No part of the ~~[Lighthouse Preservation Special]~~ Fund may  
9 revert or be credited to the General Fund or any other special fund of the State.

10       (d)     The Maryland Historical Trust may:

11           (1)     Apply for and accept any fund or grant from any federal, State, local,  
12 or private source for credit to the Fund that might assist with the preservation of  
13 lighthouses in the State that are publicly owned or not for profit; and

14           (2)     Contract for and sell by any method any item that relates to  
15 lighthouse preservation, the proceeds from which shall be credited to the Fund.

16       (e)     (1)     With the advice of a lighthouse preservation advisor appointed by the  
17 Secretary to serve without compensation, the Trust may use money in the Fund:

18                   (i)     To preserve any lighthouse in the State that is publicly owned  
19 or not for profit;

20                   (ii)    For Maryland lighthouse preservation, education, and  
21 promotion; and

22                   (iii)   To compensate staff employed by the Trust to administer the  
23 Fund.

24           (2)     The Trust may not use any money in the Fund for any other purpose  
25 of the Trust.

26       (f)     On or before January 30 of each year, the Maryland Historical Trust shall  
27 report to the Governor and, subject to § 2-1246 of the State Government Article, to  
28 the budget committees of the General Assembly on the financial status of the Fund  
29 during the preceding fiscal year.

30   ~~3-417.~~

31       (a)     The Trust shall compile a Maryland Inventory of Historic Properties which  
32 shall consist of all districts, sites, buildings, structures, and objects of known or  
33 potential value to the prehistory, history, upland and underwater archeology,  
34 architecture, engineering, and culture of this State.

35       (b)     (1)     The Trust shall compile a Maryland Register of Historic Properties  
36 which shall include all properties listed in or determined by the Director to be eligible

1 for listing in the National Register of Historic Places by the United States  
2 Department of the Interior.

3 (2) The Trust shall adopt regulations specifying procedures and criteria  
4 of eligibility for inclusion of properties in the Maryland Register of Historic  
5 Properties.

6 (e) Determinations of eligibility made by the Director may be appealed to the  
7 Governor's Consulting Committee on the National Register of Historic Places whose  
8 determination shall be final.

9 (d) [Any information] INFORMATION from the inventory or register relating  
10 to the location and character of a historic property shall be confidential if the Director  
11 determines that disclosure will create a substantial risk of harm, theft, or destruction  
12 to the property or the area or place where the property is located.

13 ~~3-418.~~

14 (a) ~~There is a Maryland Advisory Council on Historic Preservation.~~

15 (b) ~~The Council shall consist of [7] SEVEN voting members appointed by the~~  
16 ~~Governor:~~

17 (1) ~~The Secretary, ex officio, who shall serve as chairman;~~

18 (2) ~~The Secretary of General Services, ex officio;~~

19 (3) ~~The Secretary of Transportation, ex officio;~~

20 (4) ~~The [Director] SECRETARY of Planning, EX OFFICIO;~~

21 (5) ~~[2] TWO individuals with expertise in architecture, history,~~  
22 ~~archeology, or other appropriate discipline relating to historic preservation; and~~

23 (6) ~~[1] ONE individual from the general public.~~

24 (e) ~~A cabinet member on the Council may designate the deputy secretary of~~  
25 ~~the represented department to act in the Secretary's absence.~~

26 (d) (1) ~~Except for State officials or their representatives, the term of a~~  
27 ~~member is 4 years.~~

28 (2) ~~The terms of the public members are staggered as required by the~~  
29 ~~terms provided for members of the Council on July 1, 1985.~~

30 (3) ~~At the end of a term, a member continues to serve until a successor is~~  
31 ~~appointed and qualifies.~~

32 (4) ~~A member who is appointed after a term has begun serves only the~~  
33 ~~rest of the term and until a successor is appointed and qualifies.~~

1 (e) (1) A majority of the full authorized membership of the Council is a  
2 quorum.

3 (2) The Council shall determine the times and places of its meetings.

4 (3) A member of the Council:

5 (i) ~~May~~ MAY not receive compensation[:], but

6 [(ii) Is] IS entitled to reimbursement for expenses under the  
7 Standard State Travel Regulations, as provided in the State budget.

8 (f) The Director of the Trust shall serve as secretary and staff to the Council.

9 (g) The Council shall review and comment on State undertakings as provided  
10 in [~~§ 5-617~~] § 3-419 of this subtitle.

11 ~~3-419.~~

12 (a) (1) (I) ~~State units may consult with the Trust to develop plans or~~  
13 ~~interagency agreements for the identification, evaluation, and management of~~  
14 ~~properties owned or controlled by the unit that are listed in or determined to be~~  
15 ~~eligible for the Maryland Register of Historic Properties.~~

16 (II) ~~Capital projects undertaken in accordance with a plan approved~~  
17 ~~by the Trust or an interagency agreement shall not be subject to any additional~~  
18 ~~review requirements under this section.~~

19 (2) ~~To the extent feasible, prior to submission of a request for a capital~~  
20 ~~project to the Department of Budget and Management under § 3-602 of the State~~  
21 ~~Finance and Procurement Article [of the Code], or prior to or as part of the final~~  
22 ~~project planning phase for a major transportation capital project as defined in §~~  
23 ~~2-103.1 of the Transportation Article, the requesting or responsible State unit shall~~  
24 ~~consult with the Trust to determine if the proposed capital project [or projects] will~~  
25 ~~adversely affect any property listed in or eligible for the Maryland Register of Historic~~  
26 ~~Properties.~~

27 (3) ~~To the extent not otherwise reviewed by the Trust under this section,~~  
28 ~~prior to approval of the use of the proceeds of State general obligation bonds by the~~  
29 ~~Board of Public Works, the Department of Budget and Management, or the~~  
30 ~~responsible State unit shall consult with the Trust to determine if any nonstate~~  
31 ~~capital project will adversely affect any property listed in or eligible for the Maryland~~  
32 ~~Register of Historic Properties.~~

33 (4) ~~To the extent feasible, and as early in the planning process as~~  
34 ~~possible, a State unit utilizing nonbudgeted funds for capital projects subject to the~~  
35 ~~reporting requirements of § 3-602 of the State Finance and Procurement Article, shall~~  
36 ~~consult with the Trust to determine if the capital project will adversely affect any~~  
37 ~~property listed in or eligible for the Maryland Register of Historic Properties.~~

1 (b) (1) For capital projects reviewed under subsection (a) of this section, the  
2 Director shall determine whether the projects will adversely affect any property listed  
3 in or eligible for the Maryland Register of Historic Properties on or before 30 days  
4 from the date of notification by a unit of the State government.

5 (2) If the Director determines that the proposed project will have a  
6 significant adverse effect on a listed or eligible property, the State unit and the  
7 Director shall consult to determine if a feasible and practicable means to avoid,  
8 mitigate, or satisfactorily reduce the adverse effect exists.

9 (e) If the Director and the State unit are unable to agree on a plan to avoid,  
10 mitigate, or satisfactorily reduce the adverse effect, the State unit shall submit to the  
11 Council a report of the consultations and the findings and recommendations of the  
12 State unit.

13 (d) Within 30 days after the receipt of the report of the State unit involved, the  
14 Council shall submit to the unit:

15 (1) Comments accepting the adverse effect; or

16 (2) Comments recommending practicable and feasible alternatives that  
17 exist to avoid, mitigate, or satisfactorily reduce the adverse effect.

18 (e) (1) The State unit may proceed with the undertaking incorporating the  
19 alternatives recommended by the Council, if any; or

20 (2) If the State unit disagrees with the comments of the Council, the  
21 State unit shall:

22 (i) Submit to the Council a written response explaining why the  
23 unit refuses to adopt the measures included in the comments of the Council; and

24 (ii) Refrain from proceeding with the undertaking until at least 10  
25 working days after the submission of the response to the Council.

26 (f) The Trust shall adopt [rules and] regulations that establish procedures  
27 and standards:

28 (1) For administrative review and comment under this section, including  
29 time frames for Trust action on specific categories of projects;

30 (2) To exempt categories of programs or projects or a specific project from  
31 any of the requirements of this section when the exemption is determined to be  
32 consistent with the purposes of this subtitle, and the best interests of the State,  
33 taking into consideration the magnitude of the exempted program, project, or projects  
34 and the likelihood of impairment of historic properties; and

35 (3) To provide for participation by other units of the State government,  
36 local governments, private organizations, and other entities in proceedings under this  
37 section that may affect their interests.

1       (g)       ~~In accordance with the regulations to be adopted by the Trust under~~  
2 ~~subsection (f) of this section, the provisions of this section may be applied to [any] AN~~  
3 ~~undertaking that is subject to § 106 of the National Historic Preservation Act.~~

4 ~~3-420.~~

5       (a)       ~~In cooperation with the Trust and subject to available resources, each~~  
6 ~~State unit shall:~~

7               (1)       ~~Establish a program to identify, document, and nominate to the Trust~~  
8 ~~all properties owned or controlled by the unit that appear to qualify for inclusion in~~  
9 ~~the Maryland Register of Historic Properties;~~

10              (2)       ~~Exercise caution to ensure that [any] property that is listed in or~~  
11 ~~determined eligible for the Maryland Register of Historic Properties is not~~  
12 ~~inadvertently transferred, sold, demolished, destroyed, substantially altered, or~~  
13 ~~allowed to deteriorate significantly; and~~

14              (3)       ~~Prior to acquiring, constructing, or leasing a building for the purpose~~  
15 ~~of carrying out the unit's responsibilities, use, to the extent prudent and practicable,~~  
16 ~~any historic building under its control and available to the unit.~~

17       (b)       ~~Each State unit shall initiate measures to ensure that when, as a result of~~  
18 ~~State action or financial assistance being provided by the unit, a historic property is~~  
19 ~~to be substantially altered or destroyed, timely steps shall be taken to:~~

20              (1)       ~~Make appropriate investigations, records, or salvage; and~~

21              (2)       ~~Deposit the results of investigations, records, recovered objects, and~~  
22 ~~materials with the Trust.~~

23       (c)       ~~Each State unit shall cooperate with the Trust by:~~

24              (1)       ~~[providing] PROVIDING, when requested, notice of applications for~~  
25 ~~permits, licenses, or financial assistance; and~~

26              (2)       ~~[by requiring] REQUIRING, where appropriate, consultation with the~~  
27 ~~Trust by an applicant, prior to final action by the unit on the request for a permit,~~  
28 ~~license, or financial assistance.~~

29       (d)       ~~A State unit proposing to transfer surplus State-owned properties listed in~~  
30 ~~or eligible for the Maryland Register of Historic Properties shall ensure that the~~  
31 ~~proposed disposition provides for the preservation or enhancement of the property~~  
32 ~~where prudent, practicable, and in the State's best interest.~~

33       (e)       ~~A State unit may:~~

34              (1)       ~~Include the capital costs of preservation activities, excluding studies~~  
35 ~~and surveys, undertaken pursuant to the requirements of this subtitle as eligible~~

1 project costs in any undertaking of the unit or any undertaking with financial  
2 assistance provided by the unit.

3 (2) After consultation with the Trust, require reasonable conditions on  
4 any license, permit, or award of financial assistance for a proposed undertaking to  
5 avoid, mitigate, or satisfactorily reduce any significant adverse effect on a property  
6 listed in or determined eligible for the Maryland Register of Historic Properties.

7 (f) A State unit may seek guidance from the Advisory Council established  
8 under [~~§ 5-616~~] § 3-418 of this subtitle regarding conditions applicable to permits,  
9 licenses, and financial assistance authorized under subsection (e)(2) of this section.

10 (g) (1) The Trust shall adopt [~~rules and~~] regulations establishing  
11 professional standards, guidelines, and procedures for the preservation of historic  
12 properties owned, controlled, regulated, or assisted by a State unit.

13 (2) [~~These standards, guidelines, and procedures~~] THE REGULATIONS  
14 shall minimize the need for Trust review and avoid administrative duplication and  
15 time delays.

16 (h) In accordance with the regulations to be adopted by the Trust under  
17 subsection (g) of this section, the provisions of this section may be applied to any  
18 undertaking that is subject to § 106 of the National Historic Preservation Act.

19 ~~3-421.~~

20 (a) Failure by a State unit to comply with the provisions of [~~§§ 5-617 and~~  
21 ~~5-618~~] §§ 3-419 AND 3-420 of this subtitle does not create a private cause of action  
22 under the laws of this State.

23 (b) A person may appeal the reasonableness of any license or permit condition  
24 in accordance with the Administrative Procedure Act.

25 ~~3-422.~~

26 (a) [~~Any~~] A person may inspect, study, explore, photograph, measure, record,  
27 or otherwise use and enjoy a submerged archaeological historic property on  
28 submerged lands over which the State has sovereign control without being required to  
29 obtain a permit if the use or activity:

30 (1) Does not involve excavation, destruction, or substantive injury or  
31 disturbance of such historic property or its immediate environment;

32 (2) Does not endanger other persons or property; and

33 (3) Does not violate existing regulations or provisions of law.

34 (b) A person may not excavate, destroy, or substantively injure or disturb a  
35 submerged archaeological historic property on submerged lands over which the State

1 has sovereign control without a permit from the Trust. Nothing contained in this  
2 subtitle abrogates or supplants any power of the State Highway Administration.

3 (c) The Trust shall establish a program for the issuance and administration of  
4 permits for any activity involving the excavation, destruction, or substantive injury or  
5 disturbance of submerged archaeological historic property on submerged lands over  
6 which the State has sovereign control.

7 (d) (1) The Trust may issue an exclusive permit for the excavation,  
8 destruction, or substantive injury or disturbance of submerged archaeological historic  
9 property on submerged lands over which the State has sovereign control to any  
10 person [or entity] for [such] A period of time and under [such] THE conditions [as]  
11 DETERMINED BY the Trust [may deem appropriate].

12 (2) After an agreement has been entered into pursuant to [§ 5-611.1(c)]  
13 § 3-412(C) of this subtitle, permits may be issued if the Trust determines that:

14 (1) (I) Issuance of a permit is in the best interest of the State; and

15 (2) (II) The applicant for [such a] THE permit has submitted a  
16 research plan that meets standards established by the Trust regarding professional  
17 qualifications, techniques and methodology for recovery and dissemination of data,  
18 and proper conservation of information and materials.

19 (e) The Trust may not issue a permit to a person seeking title to a submerged  
20 archaeological historic property [or any portion thereof], or to a person or entity  
21 seeking to utilize a submerged archaeological historic property for commercial  
22 salvage or other income producing purposes, unless:

23 (1) Issuance of such a permit is consistent with the purposes of  
24 subsection (d)(2)(II) of this section;

25 (2) The applicant has provided the Trust with some form of assurance  
26 acceptable to the Trust that the project will be carried out and completed in  
27 accordance with the research plan approved by the Trust; and

28 (3) The Trust finds that one or more of the following conditions is met:

29 (i) The property to be excavated or disturbed is[, in the opinion of  
30 the Trust,] threatened with imminent destruction or substantial damage by natural  
31 factors or by human factors unrelated to the commercial excavation or disturbance of  
32 the submerged archaeological historic property in question;

33 (ii) The submerged archaeological historic property is not, in the  
34 opinion of the Trust, of major scientific, archaeological, anthropological, historical,  
35 recreational, or other public value;

36 (iii) The proposed disturbance will be minor in scale and will  
37 produce information relevant to the Maryland comprehensive historic preservation  
38 plan prepared by the Trust under [§ 5-607(b)(4)] § 3-407(B)(4) of this subtitle; or

1                   (iv)     That the [subject] property of the permit will not be excavated  
2 by any other person in the foreseeable future and that historic property will remain  
3 submerged until that time.

4     (f)           The Trust may charge reasonable fees for the issuance of permits and may  
5 require a permittee to assist in defraying the cost of the Trust's review,  
6 administration, and supervision of the permit.

7     (g)     (1)     The Director and the Director's designee are empowered to enforce  
8 the provisions of this section and may:

9                   (i)     Issue summonses for violations of this section or of any permit  
10 issued pursuant to this section;

11                  (ii)     Appropriate objects or materials taken, collected, or otherwise  
12 disturbed from a submerged archaeological historic property contrary to the terms of  
13 a permit, or without a permit if such action took place following the effective date of  
14 this section; and

15                  (iii)    Revoke [any permits] A PERMIT issued [pursuant to] UNDER  
16 this section if there is a finding that the permit was improperly issued or if the terms  
17 of the issued permit have been violated.

18                  (2)     If the Director's exercise of powers under [items (i) through (iii) of]  
19 paragraph [(1)] (1)(I) THROUGH (III) of this subsection gives rise to a contested case as  
20 defined in § 10-202(d) of the State Government Article, the Trust shall afford the  
21 affected persons or permittees an opportunity for an agency hearing in accordance  
22 with the procedures specified in the Department's regulations relating to contested  
23 cases.

24     (h)     (1)     A permit is not required of the Trust for any undertaking provided for  
25 by this section.

26                  (2)     [However, before any such] BEFORE AN undertaking is initiated, the  
27 Trust shall secure approval from the Board of Public Works.

28     (i)     (1)     The Trust shall:

29                   [(1)]    (1)     Establish an educational program for the training of interested  
30 members of the public in the identification and registration of submerged  
31 archaeological historic property, and certify those who have successfully completed  
32 such training; and

33                   [(2)]    (II)    Subject to the approval of the Secretary and in consultation  
34 with appropriate public and private sector groups in the State including sport divers,  
35 professional dive operators, dive clubs, salvors, archaeologists, commercial fishermen,  
36 and historic preservationists, as well as the Federal Advisory Council on Historic  
37 Preservation, adopt [rules and] regulations for the issuance of permits and the  
38 disposition or transfer of submerged archaeological historic property under this  
39 subtitle.

1           (2)     ~~[These] THE regulations shall provide [specifically] that [any~~  
2 ~~individuals] AN INDIVIDUAL, without a permit, may collect on a small scale from~~  
3 ~~submerged archaeological historic properties a limited number of objects or materials~~  
4 ~~which can be recovered from such properties by hand or through the use of~~  
5 ~~screwdrivers, wrenches, or pliers.~~

6           (3)     ~~The State [, however,] shall not be liable for any injuries or losses~~  
7 ~~sustained by [such individuals] AN INDIVIDUAL UNDER PARAGRAPH (2) OF THIS~~  
8 ~~SUBSECTION.~~

9 ~~3-423.~~

10       (a)     ~~The provisions of this subtitle pertaining to the protection of submerged~~  
11 ~~archaeological historic property, terrestrial archaeological historic property, and~~  
12 ~~archaeological historic property in caves as provided in [§ 5-628] § 3-430 of this~~  
13 ~~subtitle may apply [also] to [such] property located on privately owned lands if:~~

14           (1)     ~~The owner [or owners petition] PETITIONS the Trust in writing to~~  
15 ~~apply [such] THE provisions to the property; and~~

16           (2)     ~~The Trust determines that the property is eligible for the Maryland~~  
17 ~~Register of Historic Properties and warrants [such] protection.~~

18       (b)     ~~Unless the land is controlled by the State within the meaning of [§~~  
19 ~~5-601(f)] § 3-401(F) of this subtitle, nothing in this subtitle shall be deemed to limit or~~  
20 ~~prohibit the use of privately owned land by the owner of such land, or by a guest of the~~  
21 ~~owner, or to require the owner or guest to obtain a permit from the Trust for~~  
22 ~~excavation or any other activity on [such] THE privately owned land.~~

23       (c)     ~~A person who knows the location of any archaeological site in the State is~~  
24 ~~encouraged to communicate the information to a reputable museum, an institution of~~  
25 ~~higher education, a recognized scientific or historical institution or organization, or~~  
26 ~~the Trust.~~

27 ~~3-424.~~

28       (a)     (1)     ~~There is an Archaeology Office in the Trust.~~

29           (2)     ~~The administrative head of the Office is the Chief Archaeologist, who~~  
30 ~~shall be a professional archaeologist whom the Director employs in accordance with~~  
31 ~~[§ 5-609] § 3-409 of this subtitle.~~

32           (3)     ~~The Director shall also employ a State Terrestrial Archaeologist and a~~  
33 ~~State Underwater Archaeologist in accordance with [§ 5-609] § 3-409 of this subtitle.~~

34           ~~[(2)]~~ (4)     ~~Each archaeologist employed under this subsection shall~~  
35 ~~possess an advanced degree in archaeology or a closely related field from an~~  
36 ~~accredited college or university.~~

1       (b)     (1)     All archaeologists within the Trust and employees hired to perform  
2 archaeological work within the Trust, excluding persons specifically assigned to  
3 parks, museums, and other site specific facilities under the jurisdiction of the Trust,  
4 shall be staff members of the Archaeology Office.

5               (2)     The employees may be assigned archaeological related functions  
6 within other units of the Trust but shall remain staff members of the Archaeology  
7 Office.

8 3-425.

9       (a)     The Archaeology Office shall:

10            (1)     Include a research unit that will engage in, and direct fundamental  
11 research into the archaeology of the State, synthesize existing research data, and  
12 encourage archaeological research and investigation undertaken by any scientific or  
13 historical institution or organization, museum, or institution of higher education in  
14 the State;

15            (2)     Cooperate in excavation of sites of historical or archaeological  
16 significance in custody or control of any other State unit;

17            (3)     Encourage the preservation of prehistoric or historic sites located on  
18 privately owned lands in the State;

19            (4)     Coordinate the retrieval and preservation of objects of archaeological  
20 significance discovered during the course of any public construction in the State;

21            (5)     Cooperate with and assist museums, institutions of higher education,  
22 and scientific or historical institutions and organizations in the preservation and  
23 protection of objects and materials of archaeological nature in their custody;

24            (6)     Make available to museums, institutions of higher education, and  
25 scientific or historical institutions and organizations objects and materials suitable  
26 for demonstrating the archaeological history of the State;

27            (7)     Make available to public and private schools in the State exhibits,  
28 and assist in the instruction of pupils as to the manner of life of the early settlers and  
29 natives of the State;

30            (8)     Cooperate with similar agencies of other states for the general  
31 purpose of preserving archaeological sites and objects and materials of archaeological  
32 significance and prevent the exploitation of these sites, objects, and materials in this  
33 State by institutions or agencies of other states;

34            (9)     Disseminate archaeological facts and materials through publication  
35 of reports of archaeological research and investigation;

1           (10)    Establish an educational program for the training of interested  
2 members of the public in the identification, investigation, and registration of  
3 terrestrial archaeological historic property;

4           (11)    Prepare a list of prioritized research goals and objectives to guide the  
5 Trust and the Department's Division of Historical and Cultural Programs in selecting  
6 archaeological research projects that they will perform;

7           (12)    In consultation with the Advisory Committee on Archaeology  
8 established by [~~§ 5-624~~] § 3-426 of this subtitle, develop a policy that specifies  
9 circumstances under which the Trust may directly perform archaeological  
10 investigations which have been required in order to comply with State or federal  
11 statutes or regulations administered by the Trust or the State Historic Preservation  
12 Officer; and

13           (13)    Annually furnish to the Advisory Committee on Archaeology  
14 established by [~~§ 5-624~~] § 3-426 of this subtitle a copy of that portion of the Trust's  
15 annual report to the Governor required by [~~§ 5-607(b)(16)~~] § 3-407(B)(16) of this  
16 subtitle relating to the Trust's archaeological activities.

17       (b)    (1)    Except as provided in paragraph (2) of this subsection, nothing in this  
18 subtitle shall be deemed to require that archaeologists, other than those employed or  
19 hired by the Trust, shall adhere to archaeological research goals or objectives  
20 developed by the Archaeology Office in accordance with this section.

21           (2)    Archaeologists performing projects governed by State or federal  
22 statutes or regulations administered by the Trust or the State Historic Preservation  
23 Officer shall adhere to those goals or objectives to the extent required by pertinent  
24 statutes or regulations.

25 ~~3-426.~~

26       (a)    (1)    ~~There is an Advisory Committee on Archaeology.~~

27           (2)    ~~[It] THE BOARD consists of [7] SEVEN members APPOINTED BY~~  
28 ~~[whom] the Governor [appoints upon] ON recommendation of the Secretary, with the~~  
29 ~~advice and consent of the Senate[.].~~

30           (3)    ~~THE MEMBERS OF THE BOARD SHALL BE SELECTED~~ from among  
31 ~~persons who have skill and knowledge in archaeological matters including:~~

32           (I)    ~~[representatives] REPRESENTATIVES of reputable~~  
33 ~~museums[.];~~

34           (II)   ~~[institutions] INSTITUTIONS of higher education[.];~~

35           (III)   ~~[recognized] RECOGNIZED scientific or historical societies or~~  
36 ~~institutions; and~~

1 (IV) ~~[qualified] QUALIFIED~~ private firms that provide  
2 archaeological services.

3 (4) The Committee shall choose a chairman.

4 (5) There shall be at least four meetings a year held at ~~[the call of]~~  
5 ~~TIMES DETERMINED BY~~ the chairman.

6 (6) The Chief Archaeologist or at least one of the State Archaeologists  
7 referred to in ~~[§ 5-622] § 3-424~~ of this subtitle shall attend all Advisory Committee  
8 meetings.

9 (b) (1) The members of the Committee shall serve terms of 3 years.

10 (2) The terms of these members are staggered as required by the terms  
11 of the members serving on July 1, 1990.

12 (3) A member appointed to fill a vacancy in an unexpired term or to  
13 succeed a member who is holding over serves only for the remainder of the term.

14 (4) A member appointed to serve a term of less than 3 years for the  
15 purpose of implementing staggered terms[,] may be reappointed to serve a full  
16 3-year term.

17 (c) The members of the Committee shall serve without compensation, but  
18 each member shall be reimbursed for expenses incurred while actually engaged in the  
19 performance of duties in accordance with the Standard State Travel Regulations as  
20 provided in the State budget.

21 (d) The Committee shall advise and assist the Archaeology Office on  
22 archaeological matters and shall review policies, plans, and rules and regulations  
23 regarding archaeological matters.

24 (e) After consultation with the Committee, the Secretary shall advise the  
25 Governor regarding the appointment of trustees qualified in the field of archaeology.  
26 3-427.

27 (A) A person may not excavate, appropriate, injure, or destroy any terrestrial  
28 archaeological site on land the State owns or controls without a permit from the  
29 Trust.

30 (B) A permit is not required of the Trust for any undertaking provided for by  
31 this section or ~~[§ 5-626] § 3-428~~ of this subtitle.

32 3-428.

33 (A) The Trust may grant a permit for archaeological excavation of a terrestrial  
34 archaeological site on land the State owns or controls to ~~[any]~~ A person ~~[or~~  
35 institution who or which] THAT in the Trust's judgment is qualified to conduct an

1 excavation to gather objects and materials of historical or archaeological value or  
2 interest.

3 ~~(B)~~ (1) The Trust may adopt ~~[and promulgate rules and]~~ regulations for  
4 ~~terrestrial archaeological excavation.~~

5 ~~(2)~~ The ~~[rules and]~~ regulations shall be designed to assure proper  
6 ~~safeguarding and preservation of the objects and materials for the people of the State.~~

7 ~~(C)~~ Terrestrial archaeological excavation shall be conducted only for the  
8 benefit of reputable museums, institutions of higher education, or other recognized  
9 scientific or historical institutions or organizations, so as to increase knowledge and  
10 appreciation of archaeological objects and materials.

11 ~~3-429.~~

12 ~~(a)~~ Except as provided in subsection ~~[(b)] (C)~~ of this section, ~~[any] AN object~~  
13 ~~or material of historical or archaeological value or interest found on a submerged or~~  
14 ~~terrestrial archaeological site or land the State owns or controls is the property of the~~  
15 ~~State.~~

16 ~~(B)~~ Except as otherwise provided under this subtitle for submerged  
17 archaeological historic property, ~~[it] AN OBJECT OR MATERIAL OF HISTORICAL OR~~  
18 ~~ARCHAEOLOGICAL VALUE OR INTEREST FOUND UNDER SUBSECTION (A) OF THIS~~  
19 ~~SECTION~~ shall be deposited for permanent preservation in a reputable museum,  
20 institution of higher education, or with a recognized scientific or historical institution  
21 or organization.

22 ~~[(b)] (C)~~ (1) Subject to applicable federal law, and subject to paragraph (2) of  
23 this subsection, the Trust may transfer any human remains, including Native  
24 American human remains, in its possession, custody, or control to an appropriate  
25 place of repose.

26 (2) If the cultural affiliation of human remains and associated funerary  
27 objects can be established with a particular cultural group, the Trust may transfer the  
28 remains and any associated funerary objects in its possession, custody, or control, in  
29 the following order of priority to:

30 (i) Descendants of the deceased; or

31 (ii) Groups established as culturally affiliated with the deceased,  
32 including Native American tribes, bands, groups, or clans.

33 ~~[(c)] (D)~~ (1) Except for Native American human remains and associated  
34 funerary objects subject to subsection ~~[(b)(2)] (C)(2)~~ of this section, the Trust may  
35 transfer the remains and objects to a reputable museum, institution of higher  
36 education, or recognized scientific or historical institution or organization for study, if  
37 the study of human remains and objects:

1 (i) Is an essential part of scientific research, the outcome of which  
2 will be of benefit to Maryland; and

3 (ii) Will be completed and the items returned to the Trust within 1  
4 year of the date of the transfer, except as provided in paragraph (2) of this subsection.

5 (2) (i) A museum, institution of higher education, or recognized  
6 scientific or historical institution or organization that has made a good faith effort to  
7 complete the study within 1 year, but is unable to do so, may request from the Trust  
8 an extension of time.

9 (ii) Upon request, the Trust may extend the time for completion of a  
10 study only in accordance with the regulations adopted by the Trust.

11 [(d)] (E) (1) In consultation with the Commission on Indian Affairs, the  
12 Trust shall adopt regulations to carry out the provisions of this section.

13 (2) Regulations adopted in accordance with paragraph (1) of this  
14 subsection shall include:

15 (i) Procedures for determining the appropriate disposition of  
16 human remains for which descent or cultural affiliation cannot be established;

17 (ii) Specific time frames and procedures for the extension of a study  
18 of human remains and associated funerary objects beyond 1 year; and

19 (iii) Procedures to account for [any] human remains and associated  
20 funerary objects that are transferred on a temporary basis for study to a museum,  
21 institution of higher education, or recognized scientific or historical institution or  
22 organization.

23 3-430.

24 (a) Except as provided in subsection (b) of this section, a person may not  
25 excavate, remove, destroy, injure, deface, or in any manner disturb any burial  
26 grounds, historic or prehistoric ruins, or archaeological site or any part of any such  
27 burial grounds, ruins, or site, including relics, inscriptions, saltpeter workings,  
28 fossils, bones, remains of historical human activity, or any other archaeological,  
29 prehistoric, and historic features which may be found in any cave.

30 (b) (1) A person trained in archaeology may request a permit from the Trust  
31 to excavate or remove archaeological, prehistoric, and historic features from a cave on  
32 land the State owns or controls consistent with the provisions relating to permits for  
33 terrestrial sites set forth in [§§ 5-625] §§ 3-427 through [5-627] 3-429 of this subtitle.

34 (2) (i) A person trained in archaeology may request a permit from the  
35 Trust to excavate or remove archaeological, prehistoric, and historic features from a  
36 cave on privately owned land subject to the following provisions:



1 \$1,000 [or imprisonment for a term not to exceed 30 days,] or both, with costs  
 2 imposed at the discretion of the court, and, if the person or entity holds a permit  
 3 issued under [~~§ 5-620, § 5-626 or § 5-628~~] ~~§ 3-422, § 3-428, OR § 3-430~~ of this subtitle,  
 4 the permit may be revoked by the court upon request by the Trust.

5 (2) A separate offense shall exist for each day a violation continues.

6 (b) (1) [~~Any~~] A person or entity who violates the terms of a permit issued to  
 7 utilize a submerged archaeological historic property for commercial salvage or other  
 8 income-producing purposes under [~~§ 5-620~~] ~~§ 3-422~~ of this subtitle is guilty of a  
 9 misdemeanor and upon conviction is subject to IMPRISONMENT NOT EXCEEDING 1  
 10 YEAR OR a fine not [~~to exceed~~] EXCEEDING \$10,000 [or imprisonment for a term not  
 11 to exceed 1 year,] or both, with costs imposed at the discretion of the court, and the  
 12 permit may be revoked by the court upon request by the Trust.

13 (2) A separate offense shall exist for each day a violation continues.

14 (c) All materials and recorded information which are obtained in violation of  
 15 the provisions of [~~§ 5-620~~] ~~§ 3-422~~ or [~~§§ 5-625~~] ~~§§ 3-427 through [5-628] 3-430~~ of  
 16 this subtitle shall be subject to appropriation by the State, and will be managed, cared  
 17 for, and administered by the Trust.

18 Subtitle 5. Historical and Cultural Museum Assistance Program.

19 ~~3-501.~~

20 (a) It is hereby found and declared by the General Assembly that:

21 (1) Historical and cultural heritage museums present, interpret, and  
 22 preserve unusual and significant objects of the State's heritage for the benefit,  
 23 enjoyment, and education of the citizens from every community in the State;

24 (2) Historical and cultural heritage museums are unique and beneficial  
 25 resources which supplement the State's educational system;

26 (3) These museums are the repositories and caretakers of irreplaceable  
 27 cultural items for the benefit not only of today's generation, but of those yet to come;

28 (4) Museums, many of which are located in small communities, play an  
 29 important and cost effective role in the leisure time and tourism industry of the State;  
 30 and

31 (5) It is desirable that the entire history and heritage of the State be  
 32 displayed and interpreted to the public where it happened, creating centers of  
 33 community pride and dispersing tourist activity throughout the State, since it is  
 34 neither feasible nor desirable to try to display that heritage in a single facility at one  
 35 location.

36 (b) The General Assembly therefore declares that the public interest is served  
 37 by the establishment of a program of financial assistance to help historical and

1 cultural heritage museums become more accessible to the citizens and visitors of the  
 2 State, and to assist the citizenry in better understanding its diverse cultural heritage  
 3 by supporting the upgrade, care, research, interpretation, documentation, and display  
 4 of the State's irreplaceable historical, and cultural museum collections.

5 ~~3-502.~~

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

7 (b) ~~"Local jurisdiction" means any county or any municipal corporation subject  
 8 to the provisions of Article XI-E of the Maryland Constitution, and any duly  
 9 authorized agency or instrumentality of a local jurisdiction.~~

10 (c) ~~"Museum" means a facility in the State which is organized on a nonprofit  
 11 basis for essentially educational or preservation purposes, and which:~~

12 (1) ~~Owns or utilizes tangible inanimate objects;~~

13 (2) ~~Is organized for the care of those objects and exhibits them to the  
 14 public on a regular schedule; and~~

15 (3) ~~Interprets the State's cultural heritage or the State's history, natural  
 16 history, or history of science and technology.~~

17 (d) ~~"Nonprofit organization" means a corporation, foundation, local  
 18 jurisdiction, or other legal entity, THAT HAS no part of the net earnings [of which  
 19 inures] INURING to the benefit of any private shareholder or individual holding an  
 20 interest in such entity.~~

21 (e) ~~"Operating support" means necessary administrative, technical, and  
 22 professional service and related expenses.~~

23 (F) ~~"PANEL" MEANS THE MUSEUM ASSISTANCE REVIEW PANEL.~~

24 ~~[(f)] (G) "Program" means the Historical and Cultural Museum Assistance  
 25 Program.~~

26 ~~[(g)] (H) "Trust" or "MHT" means the Maryland Historical Trust.~~

27 ~~3-503.~~

28 (a) ~~There is an Historical and Cultural Museum Assistance Program of the  
 29 Maryland Historical Trust.~~

30 (b) ~~The purpose of the Program is to provide assistance to local jurisdictions  
 31 and private nonprofit organizations for museums.~~

32 ~~3-504.~~

33 (a) (1) ~~There is a Museum Assistance Review Panel appointed by the  
 34 Secretary, as part of the Historical and Cultural Museum Assistance Program.~~

1           (2)     Members of the Panel shall fairly represent museums eligible for  
2 ~~assistance under this subtitle.~~

3           (3)     The Panel shall include ~~3~~ ex officio members as follows:

4           (i)     The President of the Senate of Maryland or the President's  
5 ~~designee;~~

6           (ii)    The Speaker of the House of Delegates of Maryland or the  
7 ~~Speaker's designee; and~~

8           (iii)   ~~1~~ representative of the Executive Branch with functions related  
9 ~~to the purposes of the Program.~~

10       (b)   (1)     The Panel shall review and make recommendations to the Secretary  
11 ~~for approval of grants under the Program.~~

12       (2)     ~~Except for the reserve allocation provided for in [§ 5-705(b)(3)]~~  
13 ~~3-505(B)(3) of this subtitle, the Panel's recommendations shall be made following a~~  
14 ~~competitive selection process.~~

15       (c)     ~~The Panel shall seek the advice and recommendations of the Maryland~~  
16 ~~State Archivist in reviewing grant applications that [in whole or in part] relate to the~~  
17 ~~care or preservation of, or access to, archival material.~~

18       (d)     ~~The Panel shall advise the Secretary and Trust staff regarding Program~~  
19 ~~policies and activities.~~

20 ~~3-505.~~

21       (a)     ~~The Trust shall:~~

22           (1)     ~~Manage, supervise, and administer the Program; and~~

23           (2)     ~~Coordinate the Program with federal, State, or private programs that~~  
24 ~~complement or facilitate carrying out the Program.~~

25       (b)   (1)     ~~The purpose of the Program is to make grants from the MHT Grant~~  
26 ~~Fund established under [§ 5-613] § 3-414 of this article to local jurisdictions and~~  
27 ~~nonprofit organizations for use by museums for:~~

28           (i)     ~~Research related to collections, exhibits or other educational~~  
29 ~~activities;~~

30           (ii)    ~~The care, conservation, interpretation, and documentation of~~  
31 ~~collections;~~

32           (iii)   ~~The planning, design, and construction of exhibits;~~

33           (iv)   ~~Educational programs and projects;~~

- 1                   (v)       The development of master plans for museums, including  
2 activities required to achieve accreditation by the American Association of Museums  
3 or other pertinent entity that provides museum accreditation;
- 4                   (vi)       The construction of minor structural modifications to existing  
5 museum facilities;
- 6                   (vii)       The development of plans and specifications and the provision  
7 of architectural, engineering, or other special services directly related to the  
8 construction or rehabilitation of museum facilities; or
- 9                   (viii)      Operating support for any museum related activity including  
10 activities described in subparagraphs (i) through (vii) of this paragraph.
- 11                 (2)       Grants may not be made:
- 12                   (i)       For museums that concurrently receive operating support from  
13 the Maryland State Arts Council; or
- 14                   (ii)      For museums operated[, in whole or in part,] by the State.
- 15                 (3)       In any fiscal year, the Secretary may allocate up to 20 percent of the  
16 total moneys available in the MHT Grant Fund to be held in reserve for unanticipated  
17 projects that are eligible for assistance in accordance with subsection (b) of this  
18 section.
- 19                 (4)       The Trust shall make grants for museums giving due consideration to  
20 equal geographic distribution throughout the State.
- 21                 (5)       The Trust may not make a grant for a museum under this Program  
22 unless the museum has been in existence as a nonprofit institution for at least 3 years  
23 prior to the date of application for the grant.
- 24                 (e)       The Trust shall:
- 25                   (1)       Conduct a survey to identify the locations, resources, and needs of  
26 museums in the State;
- 27                   (2)       Provide technical and general advisory assistance to museums that  
28 qualify or seek to qualify for grants under the Program; and
- 29                   (3)       Encourage the development of long range planning and accreditation  
30 by the American Association of Museums or other pertinent entity that provides  
31 museum accreditation and assists museums in meeting professional standards.
- 32                 (d)       (1)       The Department shall adopt regulations to carry out the purposes of  
33 the Program.
- 34                   (2)       The regulations shall include:
- 35                   (i)       Application procedures and review processes;

1 (ii) Procedures for adequate public notice of available assistance  
2 under the Program; and

3 (iii) ~~[A set of selection]~~ SELECTION criteria which the Review Panel  
4 shall consider in recommending approval of applications for grants and which must  
5 include:

6 1. The relative merits of the project or activities within  
7 identified statewide needs;

8 2. The extent to which there is any contribution by the  
9 appropriate local jurisdiction to support the project being financed with the grant;

10 3. The potential for the project to stimulate increased  
11 tourism, attendance, or museum self sufficiency; and

12 4. Other factors that may be relevant, such as the geographic  
13 distribution of grant assistance under the Program.

14 (e) (1) ~~A person may not knowingly make or cause to be made any material~~  
15 ~~misstatement of fact in a statement or report in or regarding an application for a~~  
16 ~~grant or affecting a grant already made.~~

17 (2) ~~[Any] A person who violates any provision of this subsection is guilty~~  
18 ~~of a misdemeanor and on conviction is subject to IMPRISONMENT NOT EXCEEDING 2~~  
19 ~~YEARS OR a fine not exceeding \$5,000 [or imprisonment not exceeding 2 years] or~~  
20 ~~both.~~

21 ~~Subtitle 6. Rehabilitation Tax Credits.~~

22 ~~3-601.~~

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

24 (2) ~~"Business entity" means a person conducting or operating a trade or~~  
25 ~~business in the State.~~

26 (3) ~~"Certified heritage area" has the meaning stated in § 13-1101(d) of~~  
27 ~~the Financial Institutions Article.~~

28 (4) ~~"Certified heritage structure" means a structure that is:~~

29 (i) ~~Listed in the National Register of Historic Places;~~

30 (ii) ~~Designated as a historic property under local law;~~

31 (iii) 1. ~~Located in a historic district listed on the National~~  
32 ~~Register of Historic Places or in a local historic district; and~~

33 2. ~~Certified by the Director of the Maryland Historical Trust~~  
34 ~~as contributing to the significance of the district; or~~

1 (iv) Located in a certified heritage area and which has been  
2 certified by the Maryland Heritage Areas Authority as contributing to the  
3 significance of the certified heritage area.

4 (5) "Certified rehabilitation" means rehabilitation of a certified heritage  
5 structure which the Director certifies is substantial rehabilitation in conformance  
6 with the rehabilitation standards of the United States Secretary of the Interior.

7 (6) "Director" means the Director of the Maryland Historical Trust.

8 (7) "Local historic district" means a district that the governing body of a  
9 county or municipal corporation, or the Mayor and City Council of Baltimore, has  
10 designated under local law as historic.

11 (8) "Qualified rehabilitation expenditure" means [any] AN amount that  
12 is properly chargeable to capital account and is expended in the rehabilitation of a  
13 structure that by the end of the taxable year in which the certified rehabilitation is  
14 completed is a certified heritage structure.

15 (9) "Substantial rehabilitation" means rehabilitation of a structure for  
16 which the qualified rehabilitation expenditures, during the 24-month period selected  
17 by the taxpayer ending with or within the taxable year, exceed:

18 (i) For owner-occupied residential property, \$5,000; or

19 (ii) For all other property, the greater of:

20 1. The adjusted basis of the structure; or

21 2. \$5,000.

22 (b) (1) Subject to subsection (c) of this section, for the taxable year in which  
23 a certified rehabilitation is completed, a business entity or an individual may claim a  
24 tax credit in an amount equal to 25% of the taxpayer's qualified rehabilitation  
25 expenditures for the rehabilitation.

26 (2) The same tax credit may not be applied more than once against  
27 different taxes.

28 (c) If the credit allowed under this section in any taxable year exceeds the  
29 total tax otherwise payable by the business entity or the individual for that taxable  
30 year, the business entity or individual may apply the excess as a credit for succeeding  
31 years until the earlier of:

32 (1) The full amount of the excess is used; or

33 (2) The expiration of the tenth taxable year after the taxable year in  
34 which the certified rehabilitation is completed.

35 (d) (1) If a certified heritage structure for which a certified rehabilitation  
36 has been completed is sold or transferred, the amount of any credit unused at the time

1 of sale or transfer may be transferred to the individual or business entity to which the  
2 building is sold or transferred.

3           (2)       If a certified heritage structure for which a certified rehabilitation  
4 has been completed by a nonprofit corporation exempt from taxation is sold or  
5 transferred, the full amount of the credit to which the nonprofit corporation would be  
6 entitled if taxable may be transferred to the purchaser or transferee at the time of the  
7 sale or transfer.

8       (e)       A business entity or individual that incurs qualified rehabilitation  
9 expenditures in the rehabilitation of a certified historic structure in a state other than  
10 Maryland may claim a tax credit to the same extent as provided under subsection (b)  
11 of this section if the other state has in effect a reciprocal historic rehabilitation tax  
12 credit program and agreement for taxpayers of that state who rehabilitate historic  
13 structures in Maryland.

14       (f)       (1)       (i)       In this subsection the following words have the meanings  
15 indicated.

16                   (ii)       "Historic rehabilitation mortgage credit certificate" means a  
17 certificate issued under this subsection by the Director to a business entity or  
18 individual that elects to receive the certificate in lieu of the credit allowed under this  
19 section.

20                   (iii)       "Qualified purchased heritage structure" means a certified  
21 heritage structure:

22                                   1.       For which a certified rehabilitation has been completed  
23 and as to which the full amount of the credit is unused and could be transferred to the  
24 purchaser under subsection (d) of this section;

25                                   2.       As to which the purchaser is the first purchaser of the  
26 certified heritage structure after the completion of the certified rehabilitation;

27                                   3.       That was purchased within 10 years after the completion  
28 of the certified rehabilitation; and

29                                   4.       All or a part of which within a reasonable period will be  
30 the principal residence of the purchaser.

31           (2)       (i)       A business entity or an individual may elect to receive a historic  
32 rehabilitation mortgage credit certificate in lieu of the credit otherwise allowable  
33 under this section.

34                   (ii)       An election under this subsection shall be made:

35                                   1.       For a qualified purchased heritage structure, on or before  
36 the date of the purchase; and









1 (i) Two ~~THREE~~ of whom shall be elected officials or representatives  
2 of local jurisdictions;

3 (ii) Two of whom shall be appointed from names recommended by  
4 the President of the Maryland Senate;

5 (iii) Two of whom shall be appointed from names recommended by  
6 the Speaker of the House of Delegates;

7 (iv) One of whom is a public member of the Maryland Greenways  
8 Commission;

9 (v) One of whom is a public member of the Maryland Tourism  
10 Development Board;

11 (vi) One of whom is a member of the public who has significant  
12 education or experience in historic preservation; and

13 (vii) One of whom is a member of the public who has significant  
14 education or experience in heritage tourism.

15 ~~13-1106.~~

16 (a) In accordance with the State budget, the Division of Historical and  
17 Cultural Programs within the Department of [Housing and Community  
18 Development] TOURISM shall dedicate administrative staff for the Authority.

19 ~~13-1110.~~

20 (e) The Authority may not designate a heritage area as a recognized heritage  
21 area unless the Authority finds that:

22 (1) The heritage area contains resources of statewide significance that  
23 have retained integrity of setting and a cohesive character;

24 (2) The heritage area contains at least one or more:

25 (i) Historic districts either listed in, or determined to be eligible for  
26 listing in, the Maryland Register of Historic Properties in accordance with Article  
27 [83B, § 5-615] 83D, § 5-416 of the Code; or

28 (ii) Natural or recreational resources determined by the Secretary  
29 of Natural Resources to be of statewide significance; and

30 (3) Public assistance for the heritage area is reasonably expected to  
31 produce additional private investments, job creation, and tourism revenues.

32 ~~13-1112.~~

33 (a) (1) The State officials under items (i) through (vi) of this subsection who  
34 have program responsibilities that affect aspects of the interpretation, preservation,

1 development, and use of heritage area resources shall prepare a program statement  
 2 detailing actions in the areas of planning, development, use, assistance, and  
 3 regulation that support and assist the establishment and management of certified  
 4 heritage areas, as follows:

5 (i) Secretary of Housing and Community Development regarding  
 6 housing ~~[,] AND neighborhood revitalization [, ];~~

7 (ii) ~~SECRETARY OF TOURISM REGARDING THE STATE TOURISM,~~  
 8 ~~historic preservation, and museum programs;~~

9 (iii) (iii) Secretary of Business and Economic Development  
 10 regarding the State ~~[tourism program and] economic development and job creation~~  
 11 ~~activities;~~

12 (iv) (iv) Secretary of Natural Resources regarding outdoor  
 13 ~~recreation and the management of natural resources, including State greenways;~~

14 (v) (v) Secretary of Higher Education regarding educational  
 15 ~~resources and their interpretation;~~

16 (vi) (vi) Secretary of Transportation regarding access to and  
 17 ~~transportation within certified heritage areas, including the Scenic Byways Program~~  
 18 ~~and programs for special signage; and~~

19 (vii) (vii) Secretary of General Services regarding the  
 20 ~~management and disposition of State property.~~

21 (2) The State officials shall submit the program statements required  
 22 ~~under paragraph (1) of this subsection, and any revisions of the statements, to the~~  
 23 ~~Authority.~~

24 (b) Units of State government that conduct or support activities affecting a  
 25 ~~certified heritage area shall:~~

26 (1) Consult, cooperate, and to the maximum extent feasible, coordinate  
 27 ~~their activities with the unit or entity responsible for the management of each~~  
 28 ~~certified heritage area;~~

29 (2) To the maximum extent practicable, carry out the activities of the  
 30 ~~unit in a manner that is consistent with the approved management plan for the~~  
 31 ~~certified heritage area; and~~

32 (3) ~~When conducting a review of activities under Article [83B, §§ 5-617~~  
 33 ~~and 5-618] 83D, §§ 5-618 AND 5-619 of the Code, assure that the activities will not~~  
 34 ~~have an adverse effect on the historic and cultural resources of the certified heritage~~  
 35 ~~area, unless there is no prudent and feasible alternative.~~

**Article—State Government**

2 ~~8-201.~~

3 (a) ~~The Executive Branch of the State government shall have not more than~~  
 4 ~~21 principal departments, each of which shall embrace a broad, functional area of that~~  
 5 ~~Branch.~~

6 (b) ~~The principal departments of the Executive Branch of the State~~  
 7 ~~government are:~~

- 8 (1) ~~Aging;~~
- 9 (2) ~~Agriculture;~~
- 10 (3) ~~Budget and Management;~~
- 11 (4) ~~Business and Economic Development;~~
- 12 (5) ~~the Environment;~~
- 13 (6) ~~General Services;~~
- 14 (7) ~~Health and Mental Hygiene;~~
- 15 (8) ~~Housing and Community Development;~~
- 16 (9) ~~Human Resources;~~
- 17 (10) ~~Juvenile Justice;~~
- 18 (11) ~~Labor, Licensing, and Regulation;~~
- 19 (12) ~~Natural Resources;~~
- 20 (13) ~~Planning;~~
- 21 (14) ~~Public Safety and Correctional Services;~~
- 22 (15) ~~State Police;~~
- 23 (16) ~~TOURISM;~~
- 24 ~~[(16)] (17) Transportation; [and]~~
- 25 ~~[(17)] (18) Veterans Affairs.~~

26 ~~SECTION 5. AND BE IT FURTHER ENACTED, That the publishers of the~~  
 27 ~~Annotated Code of Maryland, subject to the approval of the Department of Legislative~~  
 28 ~~Services, shall propose the correction of any agency names and titles throughout the~~  
 29 ~~Code that are rendered incorrect by this Act.~~

1     SECTION 6. ~~AND BE IT FURTHER ENACTED, That this Act shall take effect~~  
2 ~~October 1, 2001~~ July 1, 2002.