

HOUSE BILL 9

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2001 Regular Session  
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(PRE-FILED)

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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

Requested: November 15, 2000  
Introduced and read first time: January 10, 2001  
Assigned to: Economic Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 13, 2001

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Department of Tourism**

3 FOR the purpose of creating the Department of Tourism as a principal department of  
4 State government; transferring and reassigning certain duties, responsibilities,  
5 authority, functions, and units of the Department of Business and Economic  
6 Development and the Department of Housing and Community Development to  
7 the Department of Tourism; providing for the appointment of the Secretary,  
8 deputy secretary, and the heads of certain units of the Department and for the  
9 terms, duties, responsibilities, authority, and functions of those individuals;  
10 increasing the membership of the Maryland Tourism Development Board with  
11 respect to the private sector business community appointments of the President  
12 of the Senate and the Speaker of the House of Delegates to the Board; providing  
13 for specific funding levels for the Maryland Tourism Development Board Fund  
14 for certain fiscal years; abolishing the Advisory Committee on Tourism in the  
15 Department of Business and Economic Development; increasing the  
16 membership of the Heritage Areas Authority; defining certain terms; revising  
17 certain definitions; making clarifying and stylistic changes; providing for a  
18 delayed effective date; specifying that the publisher of the Annotated Code of  
19 Maryland, in consultation with the Department of Legislative Services, shall  
20 correct agency names and titles in the Code to conform to the changes made by

1 this Act; and generally relating to the Department of Tourism and the transfer of  
2 certain State units to create the Department of Tourism.

3 BY repealing

4 Article 83A - Department of Business and Economic Development  
5 Section 4-209  
6 Annotated Code of Maryland  
7 (1998 Replacement Volume and 2000 Supplement)

8 BY transferring

9 Article 83A - Department of Business and Economic Development  
10 Section 4-101 through 4-105, inclusive, and the subtitle "Subtitle 1. Division  
11 Established"; 4-201 through 4-208, inclusive, and the subtitle "Subtitle 2.  
12 Maryland Tourism Development Board and Advisory Committee on  
13 Tourism"; 4-301 and the subtitle "Subtitle 3. Maryland Lower Eastern  
14 Shore Tourism Center"; 4-401 through 4-404, inclusive, and the subtitle  
15 "Subtitle 4. Maryland Film Office"; 4-501 and the subtitle "Subtitle 5. Film  
16 Production Activity Tax Exemptions"; 4-601 through 4-609, inclusive, and  
17 the subtitle "Subtitle 6. Maryland State Arts Council"; and the title "Title  
18 4. Division of Tourism, Film, and the Arts", respectively  
19 Annotated Code of Maryland  
20 (1998 Replacement Volume and 2000 Supplement)  
21 to be  
22 Article 83D - Department of Tourism  
23 Section 2-102 through 2-106, inclusive, and the subtitle "Subtitle 1. Division  
24 Established"; 2-201 through 2-208, inclusive, and the subtitle "Subtitle 2.  
25 Maryland Tourism Development Board"; 3-301 and the subtitle "Subtitle  
26 3. Maryland Lower Eastern Shore Tourism Center"; 2-402 through 2-405,  
27 inclusive, and the subtitle "Subtitle 4. Maryland Film Office"; 2-501 and  
28 the subtitle "Subtitle 5. Film Production Activity Tax Exemptions"; 2-601  
29 through 2-609, inclusive, and the subtitle "Subtitle 6. Maryland State Arts  
30 Council"; and the title "Title 2. Division of Tourism, Film, and the Arts",  
31 respectively  
32 Annotated Code of Maryland  
33 (1998 Replacement Volume and 2000 Supplement)

34 BY transferring

35 Article 83B - Department of Housing and Community Development  
36 Section 5-101 and the subtitle "Subtitle 1. Division Established"; 5-301 through  
37 5-306, inclusive, and the subtitle "Subtitle 3. Commission on African  
38 American History and Culture"; 5-401 through 5-406, inclusive, and the  
39 subtitle "Subtitle 4. Commission on Indian Affairs"; 5-601 through  
40 5-611.1, 5-612 through 5-614.1, and 5-615 through 5-630, inclusive, and  
41 the subtitle "Subtitle 6. Maryland Historical Trust"; 5-701 through 5-705,  
42 inclusive, and the subtitle "Subtitle 7. Historical and Cultural Museum  
43 Assistance Program"; 5-801 and the subtitle "Subtitle 8. Rehabilitation

1 Tax Credits"; and the title "Title 5. Division of Historical and Cultural  
2 Programs", respectively  
3 Annotated Code of Maryland  
4 (1998 Replacement Volume and 2000 Supplement)  
5 to be  
6 Article 83D - Department of Tourism  
7 Section 3-101 and the subtitle "Subtitle 1. Division Established"; 3-202 through  
8 3-207, inclusive, and the subtitle "Subtitle 2. Commission on African  
9 American History and Culture"; 3-302 through 3-307, inclusive, and the  
10 subtitle "Subtitle 3. Commission on Indian Affairs"; 3-401 through 3-432,  
11 inclusive, and the subtitle "Subtitle 4. Maryland Historical Trust"; 3-501  
12 through 3-505, inclusive, and the subtitle "Subtitle 5. Historical and  
13 Cultural Museum Assistance Program"; 3-601 and the subtitle "Subtitle 6.  
14 Rehabilitation Tax Credits"; and the title "Title 3. Division of Historical  
15 and Cultural Programs", respectively  
16 Annotated Code of Maryland  
17 (1998 Replacement Volume and 2000 Supplement)

18 BY adding

19 New Article 83D - Department of Tourism  
20 Section 1-101 to be under the new subtitle "Subtitle 1. Definitions"; 1-201  
21 through 1-207 to be under the new subtitle "Subtitle 2. Department  
22 Established and Organized" and under the new title "Title 1. Definitions  
23 and Establishment of Department"; 2-101 and 2-401 to be under the  
24 amended title "Title 2. Division of Tourism Development, Film, and the  
25 Arts"; 3-102, 3-201, and 3-301  
26 Annotated Code of Maryland  
27 (1998 Replacement Volume and 2000 Supplement)

28 BY repealing and reenacting, without amendments,

29 Article 83D - Department of Tourism  
30 Section 2-104, 2-202, 2-205, 2-207, 2-301, 2-402, 2-501, and 2-602  
31 Annotated Code of Maryland  
32 (1998 Replacement Volume and 2000 Supplement)  
33 (As enacted by Section 2 of this Act)

34 BY repealing and reenacting, with amendments,

35 Article 83D - Department of Tourism  
36 Section 2-102, 2-103, 2-105, 2-106, 2-201, 2-203, 2-204, 2-206, 2-208, 2-403,  
37 2-404, 2-405, 2-601, 2-603, 2-604, 2-605, 2-606, 2-607, 2-608, and  
38 2-609  
39 Annotated Code of Maryland  
40 (1998 Replacement Volume and 2000 Supplement)  
41 (As enacted by Section 2 of this Act)

1 BY repealing and reenacting, without amendments,  
2 Article 83D - Department of Tourism  
3 Section 3-206, 3-305, 3-402, 3-409, 3-411, 3-415, 3-501, and 3-503  
4 Annotated Code of Maryland  
5 (1998 Replacement Volume and 2000 Supplement)  
6 (As enacted by Section 3 of this Act)

7 BY repealing and reenacting, with amendments,  
8 Article 83D - Department of Tourism  
9 Section 3-101, 3-202, 3-203, 3-204, 3-205, 3-207, 3-302, 3-303, 3-304, 3-306,  
10 3-307, 3-401, 3-403, 3-404, 3-405, 3-406, 3-407, 3-408, 3-410, 3-412,  
11 3-413, 3-414, 3-415, 3-416, 3-417, 3-418, 3-419, 3-420, 3-421, 3-422,  
12 3-423, 3-424, 3-425, 3-426, 3-427, 3-428, 3-429, 3-430, 3-431, 3-432,  
13 3-502, 3-504, 3-505, and 3-601  
14 Annotated Code of Maryland  
15 (1998 Replacement Volume and 2000 Supplement)  
16 (As enacted by Section 3 of this Act)

17 BY repealing and reenacting, with amendments,  
18 Article 20A - Tri-County Council for Western Maryland  
19 Section 4-103(a)  
20 Annotated Code of Maryland  
21 (1998 Replacement Volume and 2000 Supplement)

22 BY repealing and reenacting, with amendments,  
23 Article - Education  
24 Section 24-502(b)  
25 Annotated Code of Maryland  
26 (1999 Replacement Volume and 2000 Supplement)

27 BY repealing and reenacting, with amendments,  
28 Article - Financial Institutions  
29 Section 13-1103(b), 13-1104(a), 13-1106(a), 13-1110(c), and 13-1112  
30 Annotated Code of Maryland  
31 (1998 Replacement Volume and 2000 Supplement)

32 BY repealing and reenacting, with amendments,  
33 Article - State Government  
34 Section 8-201  
35 Annotated Code of Maryland  
36 (1999 Replacement Volume and 2000 Supplement)

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

4 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 4-101 through  
5 4-105, inclusive, and the subtitle "Subtitle 1. Division Established"; 4-201 through  
6 4-208, inclusive, and the subtitle "Subtitle 2. Maryland Tourism Development Board  
7 and Advisory Committee on Tourism"; 4-301 and the subtitle "Subtitle 3. Maryland  
8 Lower Eastern Shore Tourism Center"; 4-401 through 4-404, inclusive, and the  
9 subtitle "Subtitle 4. Maryland Film Office"; 4-501 and the subtitle "Subtitle 5. Film  
10 Production Activity Tax Exemptions"; 4-601 through 4-609, inclusive, and the  
11 subtitle "Subtitle 6. Maryland State Arts Council"; and the title "Title 4. Division of  
12 Tourism, Film, and the Arts", respectively, of Article 83A - Department of Business  
13 and Economic Development of the Annotated Code of Maryland be transferred to be  
14 Section(s) 2-102 through 2-106, inclusive, and the subtitle "Subtitle 1. Division  
15 Established"; 2-201 through 2-208, inclusive, and the subtitle "Subtitle 2. Maryland  
16 Tourism Development Board"; 3-301 and the subtitle "Subtitle 3. Maryland Lower  
17 Eastern Shore Tourism Center"; and 2-402 through 2-405, inclusive, and the subtitle  
18 "Subtitle 4. Maryland Film Office"; 2-501 and the subtitle "Subtitle 5. Film  
19 Production Activity Tax Exemptions"; 2-601 through 2-609, inclusive, and the  
20 subtitle "Subtitle 6. Maryland State Arts Council"; and the title "Title 2. Division of  
21 Tourism, Film, and the Arts", respectively, of Article 83D - Department of Tourism of  
22 the Annotated Code of Maryland.

23 SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 5-101 and the  
24 subtitle "Subtitle 1. Division Established"; 5-301 through 5-306, inclusive, and the  
25 subtitle "Subtitle 3. Commission on African American History and Culture"; 5-401  
26 through 5-406, inclusive, and the subtitle "Subtitle 4. Commission on Indian Affairs";  
27 5-601 through 5-611.1, 5-612 through 5-614.1, and 5-615 through 5-630, inclusive,  
28 and the subtitle "Subtitle 6. Maryland Historical Trust"; 5-701 through 5-705,  
29 inclusive, and the subtitle "Subtitle 7. Historical and Cultural Museum Assistance  
30 Program"; 5-801 and the subtitle "Subtitle 8. Rehabilitation Tax Credits"; and the  
31 title "Title 5. Division of Historical and Cultural Programs", respectively, of Article  
32 83B - Department of Housing and Community Development of the Annotated Code of  
33 Maryland be transferred to be Section(s) 3-101 and the subtitle "Subtitle 1. Division  
34 Established"; 3-202 through 3-207, inclusive, and the subtitle "Subtitle 2.  
35 Commission on African American History and Culture"; 3-302 through 3-307,  
36 inclusive, and the subtitle "Subtitle 3. Commission on Indian Affairs"; 3-401 through  
37 3-432, inclusive, and the subtitle "Subtitle 4. Maryland Historical Trust"; 3-501  
38 through 3-505, inclusive, and the subtitle "Subtitle 5. Historical and Cultural  
39 Museum Assistance Program"; 3-601, and the subtitle "Subtitle 6. Rehabilitation Tax  
40 Credits"; and the title "Title 3. Division of Historical and Cultural Programs",  
41 respectively, of Article 83D - Department of Tourism of the Annotated Code of  
42 Maryland.

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

## ARTICLE 83D - DEPARTMENT OF TOURISM

## TITLE 1. DEFINITIONS AND ESTABLISHMENT OF DEPARTMENT.

## SUBTITLE 1. DEFINITIONS.

4 1-101.

5 (A) IN THIS ARTICLE THE FOLLOWING WORDS HAVE THE MEANINGS  
6 INDICATED.

7 (B) "DEPARTMENT" MEANS THE DEPARTMENT OF TOURISM.

8 (C) "SECRETARY" MEANS THE SECRETARY OF TOURISM.

9 (D) "STATE" MEANS THE STATE OF MARYLAND.

10 SUBTITLE 2. DEPARTMENT ESTABLISHED AND ORGANIZED.

11 1-201.

12 THERE IS A DEPARTMENT OF TOURISM, ESTABLISHED AS A PRINCIPAL  
13 DEPARTMENT OF THE STATE GOVERNMENT.

14 1-202.

15 (A) THE HEAD OF THE DEPARTMENT IS THE SECRETARY OF TOURISM, WHO  
16 SHALL BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE  
17 SENATE.

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

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

22 (2) THE SECRETARY SHALL ADVISE THE GOVERNOR ON ALL MATTERS  
23 ASSIGNED TO THE DEPARTMENT AND IS RESPONSIBLE FOR CARRYING OUT THE  
24 GOVERNOR'S POLICIES ON THESE MATTERS.

25 (3) THE SECRETARY IS RESPONSIBLE FOR THE OPERATION OF THE  
26 DEPARTMENT AND SHALL ESTABLISH GUIDELINES AND PROCEDURES TO PROMOTE  
27 THE ORDERLY AND EFFICIENT OPERATION OF THE DEPARTMENT.

28 (4) THE SECRETARY MAY ESTABLISH, REORGANIZE, OR CONSOLIDATE  
29 AREAS OF RESPONSIBILITY IN THE OFFICE OF THE SECRETARY AS NECESSARY TO  
30 FULFILL THE DUTIES ASSIGNED TO THE SECRETARY.

31 (5) THE SECRETARY IS RESPONSIBLE FOR ESTABLISHING POLICY TO BE  
32 FOLLOWED BY THE UNITS IN THE DEPARTMENT.

1 (D) THE SECRETARY IS ENTITLED TO THE SALARY PROVIDED IN THE STATE  
2 BUDGET.

3 1-203.

4 (A) (1) WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL  
5 APPOINT A DEPUTY SECRETARY.

6 (2) THE DEPUTY SECRETARY:

7 (I) SERVES AT THE PLEASURE OF THE SECRETARY;

8 (II) IS ENTITLED TO THE SALARY PROVIDED IN THE STATE  
9 BUDGET; AND

10 (III) HAS THE DUTIES PROVIDED BY LAW OR DESIGNATED BY THE  
11 SECRETARY.

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

14 (2) EACH STAFF ASSISTANT IN THE OFFICE OF THE SECRETARY IN  
15 CHARGE OF A PARTICULAR AREA OF RESPONSIBILITY AND EACH PROFESSIONAL  
16 CONSULTANT IS IN THE EXECUTIVE SERVICE, MANAGEMENT SERVICE, OR IS A  
17 SPECIAL APPOINTMENT IN THE STATE PERSONNEL MANAGEMENT SYSTEM AND IS  
18 APPOINTED BY AND SERVES AT THE PLEASURE OF THE SECRETARY.

19 (3) UNLESS OTHERWISE PROVIDED BY LAW, THE SECRETARY SHALL  
20 APPOINT AND REMOVE ALL OTHER STAFF IN THE OFFICE OF THE SECRETARY IN  
21 ACCORDANCE WITH THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS  
22 ARTICLE.

23 (4) THE SECRETARY MAY:

24 (I) REVIEW ANY PERSONNEL ACTION TAKEN BY ANY UNIT IN THE  
25 DEPARTMENT; AND

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

28 (5) WHENEVER THE SECRETARY IS AUTHORIZED BY LAW TO MAKE AN  
29 APPOINTMENT WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY MAY NOT  
30 REMOVE THE APPOINTEE WITHOUT FIRST OBTAINING THE APPROVAL OF THE  
31 GOVERNOR.

32 1-204.

33 (A) THE SECRETARY IS RESPONSIBLE FOR THE BUDGET OF THE OFFICE OF  
34 THE SECRETARY AND FOR THE BUDGET OF EACH UNIT IN THE DEPARTMENT.

35 (B) THE SECRETARY SHALL HAVE A SEAL.

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

3 (2) THE SECRETARY MAY REVIEW AND APPROVE, DISAPPROVE, OR  
4 MODIFY THE PLANS AND PROPOSALS OF THE UNITS OF THE DEPARTMENT.

5 (D) THE SECRETARY MAY INVESTIGATE OR HOLD A HEARING ON ANY  
6 COMPLAINT ABOUT THE OPERATION OF A UNIT IN THE DEPARTMENT AND MAY  
7 REPORT THE FINDINGS OF THE SECRETARY TO THE GOVERNOR.

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

10 (F) ALL UNITS OF THE DEPARTMENT SHALL REPORT TO THE SECRETARY OR  
11 THE SECRETARY'S DESIGNEE AS PROVIDED IN REGULATIONS OR WRITTEN  
12 DIRECTIVES ADOPTED BY THE SECRETARY.

13 1-205.

14 (A) THE SECRETARY MAY ADOPT REGULATIONS FOR THE OFFICE OF THE  
15 SECRETARY.

16 (B) BEFORE A UNIT IN THE DEPARTMENT PUBLISHES A PROPOSED  
17 REGULATION UNDER § 10-112 OF THE STATE GOVERNMENT ARTICLE, THE UNIT  
18 SHALL SUBMIT THE PROPOSED REGULATION TO THE SECRETARY.

19 1-206.

20 (A) THIS SECTION DOES NOT APPLY TO A UNIT IN THE DEPARTMENT TO THE  
21 EXTENT THAT THE UNIT IS AUTHORIZED BY LAW TO EMPLOY ITS OWN LEGAL  
22 ADVISOR OR COUNSEL.

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

24 (C) THE ATTORNEY GENERAL SHALL ASSIGN TO THE DEPARTMENT THE  
25 NUMBER OF ASSISTANT ATTORNEYS GENERAL AUTHORIZED BY LAW FOR THE  
26 DEPARTMENT AND ITS UNITS.

27 (D) (1) THE ATTORNEY GENERAL SHALL DESIGNATE AN ASSISTANT  
28 ATTORNEY GENERAL ASSIGNED TO THE DEPARTMENT AS COUNSEL TO THE  
29 DEPARTMENT.

30 (2) AFTER THE ATTORNEY GENERAL DESIGNATES THE COUNSEL TO THE  
31 DEPARTMENT, THE ATTORNEY GENERAL MAY NOT REASSIGN THE COUNSEL  
32 WITHOUT CONSULTING THE SECRETARY.

33 (3) (I) THE COUNSEL MAY HAVE NO DUTY OTHER THAN TO GIVE THE  
34 LEGAL AID, ADVICE, AND COUNSEL REQUIRED BY THE SECRETARY OR ANY OTHER  
35 OFFICIAL OF THE DEPARTMENT, TO SUPERVISE THE OTHER ASSISTANT ATTORNEYS



1 GENERAL ASSIGNED TO THE DEPARTMENT, AND TO PERFORM FOR THE  
2 DEPARTMENT THE DUTIES THAT THE ATTORNEY GENERAL ASSIGNS.

3 (II) THE COUNSEL SHALL PERFORM THESE DUTIES SUBJECT TO  
4 THE CONTROL AND SUPERVISION OF THE ATTORNEY GENERAL.

5 1-207.

6 (A) THE FOLLOWING UNITS ARE IN THE DEPARTMENT:

- 7 (1) THE DIVISION OF TOURISM DEVELOPMENT, FILM, AND THE ARTS;
- 8 (2) THE DIVISION OF HISTORICAL AND CULTURAL PROGRAMS;
- 9 (3) THE MARYLAND TOURISM DEVELOPMENT BOARD;
- 10 (4) THE MARYLAND STATE ARTS COUNCIL;
- 11 (5) THE COMMISSION ON AFRICAN AMERICAN HISTORY AND CULTURE;
- 12 (6) THE COMMISSION ON INDIAN AFFAIRS; AND
- 13 (7) THE MARYLAND HISTORICAL TRUST.

14 (B) THE DEPARTMENT ALSO INCLUDES ANY OTHER UNIT THAT IS ASSIGNED  
15 TO THE DEPARTMENT.

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

17 Subtitle 1. Division Established.

18 2-101.

19 IN THIS SUBTITLE, "DIVISION" MEANS THE DIVISION OF TOURISM  
20 DEVELOPMENT, FILM, AND THE ARTS.

21 2-102.

22 There is a Division of Tourism DEVELOPMENT, Film, and the Arts within the  
23 Department.

24 2-103.

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

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

28 (3) With the approval of the Governor, the Director may be removed by  
29 the Secretary.

1 (4) Any such removal by the Secretary is final and is not subject to any  
2 appeal.

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

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

7 2-104.

8 The Division shall:

9 (1) Stimulate development of tourist business in Maryland;

10 (2) Promote Maryland business and job opportunities;

11 (3) Encourage development of recreational areas and facilities;

12 (4) Make the public aware of the State's heritage and historical  
13 development;

14 (5) Advertise the State and disseminate information about the State;

15 (6) Encourage the promotion and development of amateur and  
16 professional sports in this State;

17 (7) Encourage the advancement of and participation in the performing,  
18 visual, and creative arts; and

19 (8) Administer those programs assigned to the Division by law or  
20 designated by the Secretary.

21 2-105.

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

24 2-106.

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

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

29 (3) Expenditures from the account are restricted to cost of producing,  
30 distributing, and promoting publications of the Department and [agencies] UNITS  
31 within the Department, including the cost of free publications.

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

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

5 Subtitle 2. Maryland Tourism Development Board ~~and Advisory Committee on~~  
6 ~~Tourism.~~

7 2-201.

8 [(a)] In this subtitle, [the following words have the meanings indicated.

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

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

11 2-202.

12 The General Assembly declares it to be the policy of the State to guide,  
13 stimulate, and promote the coordinated, efficient, and beneficial development of  
14 travel and tourism in the State so that the State can derive, to the fullest extent  
15 possible, the economic, social, and cultural benefits that travel and tourism in  
16 Maryland generates.

17 2-203.

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

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

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

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

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

27 (2) [2] TWO members of the Board at all times shall be members of the  
28 General Assembly of Maryland, 1 a member of the Senate of Maryland appointed by  
29 the President and the other a member of the House of Delegates appointed by the  
30 Speaker.

31 (3) IN MAKING THE APPOINTMENTS FROM THE PRIVATE SECTOR  
32 BUSINESS COMMUNITY, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE  
33 HOUSE SHALL:

1 (I) ENSURE THAT EACH GEOGRAPHIC REGION OF THE STATE IS  
2 REPRESENTED; AND

3 (II) GIVE DUE CONSIDERATION TO THE RECOMMENDATIONS MADE  
4 BY REPRESENTATIVES OF THE TOURISM INDUSTRY AND PROVIDE BALANCED  
5 REPRESENTATION OF THE LODGING, FOOD SERVICE, TRANSPORTATION, RETAIL,  
6 AND AMUSEMENTS AND ATTRACTIONS SECTORS OF THE TOURISM INDUSTRY.

7 [(3)] (4) A member of the Board who is a member of the General  
8 Assembly may not vote on matters before the Board relating to the exercise of the  
9 sovereign powers of the State.

10 [(4)] (5) In making the appointments THAT THE GOVERNOR IS  
11 REQUIRED TO MAKE UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, the Governor  
12 shall:

13 (i) Ensure that each geographic region of the State is represented;  
14 and

15 (ii) Give due consideration to the recommendations made by  
16 representatives of the tourism industry and provide balanced representation of the  
17 lodging, food service, transportation, RETAIL, and amusements and attractions  
18 sectors of the tourism industry.

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

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

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

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

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

28 [(4)] (6) A member of the General Assembly who is appointed to the  
29 Board by the President or the Speaker serves until a successor is appointed.

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

1 (E) EACH MEMBER OF THE BOARD APPOINTED BY THE GOVERNOR SERVES AT  
2 THE PLEASURE OF THE GOVERNOR.

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

7 2-204.

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

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

11 2-205.

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

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

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

19 2-206.

20 Subject to the approval of the Secretary, the Board has the following powers and  
21 duties:

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

24 (2) To enter into contracts and agreements;

25 (3) To engage services;

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

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

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

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

1 2-207.

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

3 (1) Draft and implement:

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

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

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

9 (3) Establish an annual operating budget consistent with the marketing  
10 plan;

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

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

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

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

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

21 (9) Encourage residents to pursue careers in the tourism industry;

22 (10) Produce a climate conducive to small tourism business growth and  
23 viability;

24 (11) Review existing and proposed taxes, fees, licenses, regulations, and  
25 regulatory procedures affecting tourism and tourism businesses in the State and  
26 evaluate their impact on the ability of the tourism industry to create employment and  
27 generate income;

28 (12) Support the conducting of research necessary to evaluate, plan, and  
29 execute effective tourism programs;

30 (13) Cooperate with other public and private agencies and organizations  
31 in the development and promotion of the State's tourism and travel industries;

32 (14) Encourage, assist, and coordinate the tourism activities of local and  
33 regional promotional organizations;

1 (15) Publish and submit to the Commission and the Secretary an annual  
2 report and other material that the Board considers appropriate;

3 (16) Set policies regarding the expenditures of appropriated and other  
4 funds for tourism advertising, written and graphic materials, cooperative and  
5 matching promotional programs, and other tourism and travel developmental and  
6 promotional activities for the State; and

7 (17) Spend funds of the Maryland Tourism Development Board Fund for  
8 the planning, advertising, promotion, assistance, and development of tourism and  
9 travel industries in this State.

10 2-208.

11 (A) IN THIS SECTION, "FUND" MEANS THE MARYLAND TOURISM  
12 DEVELOPMENT BOARD FUND.

13 [(a)] (B) There is a Maryland Tourism Development Board Fund.

14 [(b)] (C) The Fund is established to provide a continuing fund for the Board to  
15 fund programs relating to the planning, advertising, promotion, assistance, and  
16 development of the tourism industry in the State.

17 [(c)] (D) The Fund is a special, continuous, nonlapsing fund that is not subject  
18 to § 7-302 of the State Finance and Procurement Article.

19 [(d)] (E) The Treasurer shall invest and reinvest the Fund in the same  
20 manner as other State funds and credit any investment earnings to the General  
21 Fund.

22 [(e)] (F) The Fund consists of:

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

24 (2) All funds accepted by the Board in accordance with [§ 4-206] § 2-206  
25 of this subtitle.

26 [(f)] (G) Expenditures from the Fund may be made only by the Board in  
27 accordance with an appropriation.

28 [(g)] (H) (1) In this subsection, "Governor's proposed General Fund  
29 appropriation" means the General Fund appropriation included by the Governor in  
30 the annual budget bill as submitted to the General Assembly, including any proposed  
31 supplemental budget, before any amendment by the General Assembly.

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

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

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

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

3 (IV) \$8,500,000, FOR FISCAL YEAR 2003;

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

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

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

7 (VIII) \$17,500,000, FOR FISCAL YEAR 2007 AND EACH FISCAL YEAR  
8 THEREAFTER.

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

15 Subtitle 3. Maryland Lower Eastern Shore Tourism Center.

16 2-301.

17 (a) There is a Maryland Lower Eastern Shore Tourism Center Advisory  
18 Committee.

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

21 (2) Of the 9 Advisory Committee members:

22 (i) 3 shall be from Somerset County;

23 (ii) 3 shall be from Wicomico County; and

24 (iii) 3 shall be from Worcester County.

25 (3) The Board of County Commissioners in Somerset and Worcester  
26 Counties and the County Council of Wicomico County shall appoint the members of  
27 the Advisory Committee from the respective counties.

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

29 (1) A member of the general public; and

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

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



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

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

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

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

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

12 Subtitle 4. Maryland Film Office.

13 2-401.

14 IN THIS SECTION, "OFFICE" MEANS THE MARYLAND FILM OFFICE.

15 2-402.

16 There is a Maryland Film Office within the Department.

17 2-403.

18 The Office may:

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

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

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

25 2-404.

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

28 (1) [The preparation] PREPARATION and distribution of appropriate  
29 promotional and informational materials pointing out desirable locations [within] IN  
30 the State for the production of motion pictures and television, explaining the benefits  
31 and advantages of producing motion pictures and television [within] IN the State,  
32 and detailing the services and assistance available [within] IN State government [as  
33 well as] INCLUDING services available at the local level and [within] IN the industry;

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

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

7 2-405.

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

11                                    Subtitle 5. Film Production Activity Tax Exemptions.

12 2-501.

13     (a)     It is the intent of the General Assembly that the tax exemption provided  
14 under § 11-227 of the Tax - General Article is for the purpose of increasing the film  
15 production activity carried out in the State, bringing economic benefits to the citizens  
16 of the State and generating increased employment opportunities in the State.

17     (b)     To ensure that the tax exemption is granted for a film production activity,  
18 a film producer or a production company seeking eligibility for the exemption must  
19 first apply for and receive from the Department a certification of eligibility for the  
20 exemption.

21     (c)     The Department and the Comptroller jointly shall adopt regulations  
22 defining with greater specificity for purposes of the sales and use tax exemption  
23 under § 11-227 of the Tax - General Article what constitutes a film production  
24 activity and what constitutes tangible personal property and taxable services used  
25 directly in connection with a film production activity.

26                                    Subtitle 6. Maryland State Arts Council.

27 2-601.

28     (a)     Many of the citizens of the State lack the opportunity to enjoy or  
29 participate in and develop a greater appreciation of performing, visual and creative  
30 arts in general, [such as] INCLUDING theatrical performances, concerts, opera, dance  
31 and ballet performances and recitals, art and art exhibitions, fine examples of  
32 architecture, and creative writing[;].

33     (b)     With increasing leisure time, the practice and enjoyment of the arts are of  
34 increasing importance[;].

35     (c)     Many of the citizens of the State possess talents of an artistic and creative  
36 nature which cannot be utilized to their fullest extent under existing conditions[;].

1 (d) The general welfare of the people of the State will be promoted by giving  
2 further recognition to the arts as a vital part of the culture and heritage of the State  
3 and as an important means of expanding the scope of our educational program for  
4 children and adults[;].

5 (e) Interest in the arts will provide employment for artists in all fields and  
6 encourage citizens to participate in the practice of the arts[;].

7 (f) Increased activities in the arts will increase employment in the State by  
8 encouraging the production of artistic events in various communities in the State,  
9 thus utilizing the talents and services of many citizens[;].

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

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

17 2-602.

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

23 2-603.

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

28 2-604.

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

31 (b) (1) The Council consists of 17 members [, 13 of whom shall be selected as  
32 provided in paragraph (1) of this subsection and 4 of whom shall be selected as  
33 provided in paragraph (2) of this subsection:].

34 [(1)] (2) (i) [13] THIRTEEN members of the Council shall be  
35 appointed by the Governor in consultation with the Secretary and with the advice and  
36 consent of the Senate, for terms of 3 years each.

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

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

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

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

9 [(2)] (3) (i) [2] TWO members of the Council shall be appointed by the  
10 President of the Senate of Maryland and 2 members of the Council shall be appointed  
11 by the Speaker of the House of Delegates of Maryland.

12 (ii) [2] TWO members of the Council at all times shall be members  
13 of the General Assembly of Maryland, [1] ONE a member of the Senate of Maryland  
14 appointed by the President and the other a member of the House of Delegates of  
15 Maryland appointed by the Speaker.

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

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

21 (c) In making the appointments, the Governor shall give due consideration to  
22 the recommendations made by the representatives of civic, educational and  
23 professional organizations concerned with or engaged in the production or  
24 presentation of the performing, visual or creative arts and shall provide balanced  
25 geographic representation.

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

30 (e) The Council shall select annually from its membership a chairman, a  
31 vice-chairman and a secretary-treasurer.

32 2-605.

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

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

1 2-606.

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

5 (1) Continuing all programs and activities and assuming all assets,  
6 liabilities, contracts, leases and other [such] obligations of the body formerly known  
7 as the Governor's Council on the Arts in Maryland[.];

8 (2) Adopting reasonable [rules and] regulations to [effectuate] CARRY  
9 OUT the provisions of this subtitle[.];

10 (3) Entering into contracts and agreements[.];

11 (4) Engaging services[.];

12 (5) Requesting and obtaining ASSISTANCE AND DATA from [any] A  
13 department, division, [board,] bureau, [commission] or other [agency] UNIT of the  
14 State [, such assistance and data as will enable it properly to carry out its powers and  
15 duties hereunder.];

16 (6) Accepting any federal funds granted by act of Congress or by  
17 executive order for any [and all of the purposes] PURPOSE of this subtitle.

18 (7) Accepting any gifts, donations or bequests for any [or all of the  
19 purposes] PURPOSE of this subtitle[.];

20 (b) The Council, subject to the approval of the Secretary, shall appoint[, from  
21 without its members,] an executive director of the Council WHO IS NOT A MEMBER OF  
22 THE COUNCIL.

23 (c) The executive director shall serve at the pleasure of the Council, subject to  
24 the concurrence of the Secretary, and shall be a special appointment in the State  
25 Personnel Management System.

26 (d) Subject to the rules and policies set forth by the Council and the  
27 administrative supervision of the Secretary, the executive director shall:

28 (1) Be the administrative officer of the Council staff;

29 (2) Direct, administer, and supervise the activities of the Council staff;  
30 and

31 (3) Appoint and remove employees of the Council.

32 2-607.

33 (a) The Council is authorized to conduct programs subject to approval of the  
34 Secretary, including[, but not limited to the following]:

1 (1) Continuation of the program of the body formerly known as the  
2 Governor's Council on the Arts in Maryland including its statewide survey of  
3 resources and needs in the arts[.];

4 (2) Determine the extent to which existing resources can fill the  
5 needs[.];

6 (3) Design new or expanded programs in the arts [either individually or  
7 in concert] with [existing] arts organizations [or arts organizations which may come  
8 into existence hereafter.];

9 (4) Encourage and assist in the formation and activities of local  
10 community arts councils[.];

11 (5) Provide technical and consultative assistance to arts organizations  
12 [throughout] IN the State[.];

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

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

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

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

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

24 (11) Make recommendations to the Board of Public Works concerning  
25 appropriate aesthetic decorations, embellishments, accessories or ornamentation to  
26 State projects, buildings and property.

27 (b) The Council shall publish an annual report and may publish other  
28 material as it deems appropriate.

29 2-608.

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

34 2-609.

35 (a) In the course of exercising its powers and duties under this subtitle, the  
36 Council shall avoid [any actions which] ACTION THAT would interfere with the

1 freedom of artistic expression or with the established or contemplated arts programs  
2 in any community.

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

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

8 Title 3. Division of Historical and Cultural Programs.

9 Subtitle 1. Division Established.

10 3-101.

11 (a) There is a Division of Historical and Cultural Programs [as an  
12 organizational unit within] IN the Department of [Housing and Community  
13 Development] TOURISM.

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

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

16 (2) The Commission on Indian Affairs;

17 (3) The Maryland Historical Trust; and

18 (4) The Historical and Cultural Museum Assistance Program.

19 3-102.

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

22 (2) THE DIRECTOR SHALL HOLD OFFICE AT THE SECRETARY'S  
23 PLEASURE.

24 (3) WITH THE APPROVAL OF THE GOVERNOR, THE DIRECTOR MAY BE  
25 REMOVED BY THE SECRETARY.

26 (4) ANY REMOVAL BY THE SECRETARY IS FINAL AND NOT SUBJECT TO  
27 ANY APPEAL.

28 (B) THE DIRECTOR SHALL BE SELECTED BECAUSE OF KNOWN EXPERIENCE  
29 AND INTEREST IN HISTORICAL AND CULTURAL PROGRAMS.

30 (C) THE DIRECTOR SHALL OPERATE THE DIVISION UNDER THE DIRECTION OF  
31 THE SECRETARY IN ACCORDANCE WITH THE PROVISIONS OF LAW.

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

2 3-201.

3 IN THIS SUBTITLE, "COMMISSION" MEANS THE COMMISSION ON AFRICAN  
4 AMERICAN HISTORY AND CULTURE.

5 3-202.

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

9 3-203.

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

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

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

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

20 (d) The appointees shall:

21 (1) [represent] REPRESENT the entire Maryland community[, and they  
22 shall];

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

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

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

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

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

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



1 3-204.

2 The Commission shall:

3 (1) Initiate, direct, and coordinate projects that further the  
4 understanding of African American history and culture;

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

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

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

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

19 (6) Publish an annual report and any other material it deems necessary.

20 3-205.

21 The records, materials, personal property, files, moneys, credits and other assets  
22 and liabilities and obligations of the Maryland Commission on Negro History and  
23 Culture are [hereby] transferred to the Maryland Commission on African American  
24 History and Culture.

25 3-206.

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

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

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

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

3 3-207.

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

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

10 (c) Subject to the rules and policies set forth by the Commissioners and the  
11 administrative supervision of the Secretary in accordance with [§§ 1-201, ] §§ 1-202,  
12 1-203, 1-204, and 1-205 of this article, the director shall:

13 (1) Be the chief administrative officer of the Commission;

14 (2) Direct, administer, and supervise the activities of the Commission;  
15 and

16 (3) Supervise the appointment and removal of personnel employed by  
17 the Commission.

18 Subtitle 3. Commission on Indian Affairs.

19 3-301.

20 IN THIS SUBTITLE, "COMMISSION" MEANS THE COMMISSION ON INDIAN  
21 AFFAIRS.

22 3-302.

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

25 3-303.

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

28 (2) OF THE NINE MEMBERS OF THE COMMISSION:

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

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

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

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

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

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

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

11 (8) THE GOVERNOR SHALL APPOINT THE MEMBERS WITH THE ADVICE  
12 AND CONSENT OF THE SENATE.

13 [(2)] (9) (i) Each applicant shall submit, under oath or affirmation, a  
14 list of the applicant's qualifications, including:

15 1. The applicant's educational history;

16 2. The applicant's employment background or other relevant  
17 experience; and

18 3. In the case of an individual applying for appointment as  
19 an American Indian member of the Commission, documentation or proof of Indian  
20 tribe, band, group, or clan membership, under the sworn and notarized signature of  
21 the authorized custodian of the records of the membership rolls of the applicable  
22 Indian tribe, band, group, or clan.

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

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

27 2. The qualifications of an individual applicant.

28 [(3)] (10) (i) [Any] A person who, in any matter within the scope of this  
29 section, knowingly and willfully falsifies or conceals, by any trick, scheme, or device,  
30 a material fact, or makes any false, fictitious, or fraudulent statements or  
31 representations, or makes or uses any false writing or document knowing the writing  
32 or document contains any false, fictitious, or fraudulent statement or entry, is guilty  
33 of a misdemeanor.

34 (ii) Except as otherwise provided by law, a person who violates this  
35 section is subject to IMPRISONMENT NOT EXCEEDING 6 MONTHS OR a fine [of] not

1 [more than] EXCEEDING \$1,000, or [imprisonment for not more than 6 months, or]  
2 both.

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

7 (c) The Commissioners shall elect annually a chairman and vice-chairman  
8 from among the members of the Commission.

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

11 3-304.

12 The Commission shall:

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

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

17 (3) Undertake a comprehensive study of indigenous American Indian  
18 tribes including but not limited to the Crees, Creeks, Cherokees, Chippewas,  
19 Choptanks, Delawares, Haliwas, Lumbees, Nanticokes, Piscataways, Potomacs,  
20 Rappahannocks, Seminoles, Susquehannas, and Wicomicos, and their influence  
21 [upon] ON Maryland history and culture;

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

24 (5) Study the economic and social needs of Indians in Maryland and  
25 make recommendations for the alleviation of these needs;

26 (6) Locate, preserve and disseminate information to the public about  
27 significant buildings and sites relating to Indian history and culture[, respectively];  
28 and

29 (7) Publish an annual report and any other material it deems necessary.  
30 3-305.

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

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

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

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

9 3-306.

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

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

16 (c) Subject to the rules and policies set forth by the Commissioners and the  
17 administrative supervision of the Secretary in accordance with [ §§ 1-201, ] §§ 1-202,  
18 1-203, 1-204, and 1-205 of this article, the administrator shall:

19 (1) Be the chief administrative officer of the Commission;

20 (2) Direct, administer, and supervise the activities of the Commission;  
21 and

22 (3) Supervise the appointment and removal of personnel employed by  
23 the Commission.

24 3-307.

25 (a) Subject to the approval of the Secretary, the Commission may establish a  
26 process by which a native American tribe, band, group, or clan which is indigenous to  
27 Maryland can apply to the Commission for formal recognition of Maryland Indian  
28 status.

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

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

35 (3) The criteria shall be generally consistent with the criteria established  
36 by the U.S. Department of the Interior, Bureau of Indian Affairs, for tribal recognition

1 by the United States of America, taking into account the special circumstances of  
2 American Indians indigenous to Maryland and shall include the following criteria:

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

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

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

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

13 (v) Any other criteria that the Commission considers necessary  
14 through regulations adopted by the Commission.

15 (c) (1) Upon the Commission's determination that a particular tribe, band,  
16 group, or clan has met the requirements for recognition set forth in the regulations,  
17 the Commission may recommend formal recognition to the Governor.

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

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

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

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

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

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

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

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

6 (g) (1) Any person who, in any matter within the scope of this section,  
7 knowingly and willfully falsifies or conceals, by any trick, scheme, or device, a  
8 material fact, or makes any false, fictitious, or fraudulent statements or  
9 representations, or makes or uses any false writing or document, knowing the writing  
10 or document contains any false, fictitious, or fraudulent statement or entry, is guilty  
11 of a misdemeanor.

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

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

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

22 Subtitle 4. Maryland Historical Trust.

23 Part I. General Provisions.

24 3-401.

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

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

29 (c) "Business entity" means, for purposes of [§§ 5-612] §§ 3-413 and [5-613]  
30 3-414 of this subtitle, a corporation, association, partnership, joint venture, or other  
31 legally organized entity.

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

37 (e) "Committee" means the Advisory Committee on Archaeology.

- 1 (f) "Controls" means having rights pursuant to a lease, option contract, or  
2 purchase contract.
- 3 (g) "Council" means the Maryland Advisory Council on Historic Preservation.
- 4 (h) "Director" means the Director of the Maryland Historical Trust.
- 5 (i) "Embedded" means firmly affixed in submerged lands such that the use of  
6 tools of excavation is required [in order] to move the bottom sediments to gain access  
7 to the archaeological historic property [and any part thereof].
- 8 (j) "Financial assistance" means an action by the State or a State unit to  
9 award grants, loans, loan guarantees, or insurance to a public or private entity to  
10 finance, either in part or in whole, an undertaking.
- 11 (k) "Governor's Consulting Committee on the National Register of Historic  
12 Places" means the committee that reviews nominations to the National Register  
13 under the National Historic Preservation Act.
- 14 (l) "Historic property" means a district, site, building, structure, monument,  
15 or object significant in the prehistory, history, upland and underwater archeology,  
16 architecture, engineering, and culture of the State, including artifacts, records, and  
17 remains related to a district, site, building, structure, or object.
- 18 (m) "Human remains" means any part of the body of a deceased human being  
19 in any state of decomposition.
- 20 (n) "Local jurisdiction" means, for purposes of [§§ 5-612] §§ 3-413 and  
21 [5-613] 3-414 of this subtitle, any of the 23 counties of the State, the City of  
22 Baltimore, any municipal corporation in Maryland subject to the provisions of Article  
23 XI-E of the Maryland Constitution, and any duly authorized agency or  
24 instrumentality of the local jurisdiction.
- 25 (o) "MHT Grant Fund" means the Historic Preservation and Historical and  
26 Cultural Museum Assistance Grant Fund of the Trust created under [§ 5-613] §  
27 3-414 of this subtitle.
- 28 (p) "MHT Grant Program" means the Historic Preservation Grant Program of  
29 the Trust created [pursuant to § 5-613] UNDER § 3-414 of this subtitle.
- 30 (q) "MHT Loan Fund" means the Historic Preservation Loan Fund of the  
31 Trust created under [§ 5-612] § 3-413 of this subtitle.
- 32 (r) "MHT Loan Program" means the Historic Preservation Loan Program of  
33 the Trust created [pursuant to § 5-612] UNDER § 3-413 of this subtitle.
- 34 (s) "Native American" means a person, or a descendant of a person, who  
35 inhabited North America prior to European contact.



1 (t) "Nonprofit organization" means, for purposes of [§§ 5-612] §§ 3-413 and  
2 [5-613] 3-414 of this subtitle, a corporation, foundation, governmental entity, or  
3 other legal entity, THAT HAS no part of the net earnings [of which inure] INURING to  
4 the benefit of [any] A private shareholder or individual holding an interest in [such]  
5 THE entity.

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

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

13 (w) "State Historic Preservation Officer" means the individual who  
14 administers the State Historic Preservation Program under the provisions of the  
15 National Historic Preservation Act of 1966.

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

18 (y) "Submerged" means beneath or substantially beneath the territorial  
19 waters of the State.

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

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

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

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

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

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

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

33 3-402.

34 The General Assembly finds that:

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

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

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

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

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

12 3-403.

13 The Maryland Historical Trust is [hereby] created as an instrumentality of the  
14 State of Maryland as part of the Department for the purpose of preserving, protecting,  
15 and enhancing districts, sites, buildings, structures, and objects significant in the  
16 prehistory, history, upland and underwater archeology, architecture, engineering, and  
17 culture of the State, to encourage others to do so and to promote interest in and study  
18 of [such] THOSE matters.

19 3-404.

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

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

26 3-405.

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

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

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

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

1 (III) [the] THE representatives of the President of the Senate and  
2 the Speaker of the House [to] SHALL be a member of the Senate and the House of  
3 Delegates, respectively.

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

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

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

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

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

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

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

23 3-406.

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

28 3-407.

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

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

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

35 (3) Adopt and use an official seal;

36 (4) Contract for consultant or other services;

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

- 1           (5)     Assist local governments in the development of local historic  
2 preservation plans and programs;
- 3           (6)     Carry out programs and activities to protect, preserve, and encourage  
4 the preservation of historic properties in the State;
- 5           (7)     Preserve and administer historic properties acquired and held by the  
6 Trust;
- 7           (8)     Cooperate with federal and State agencies, local governments, and  
8 private entities to ensure that historic properties are taken into consideration at all  
9 levels of planning and development;
- 10          (9)     Review the policies and programs of each unit of the State  
11 government that affect historic properties and recommend methods to improve the  
12 effectiveness and coordination of these policies and programs consistent with this  
13 subtitle;
- 14          (10)    Administer programs of financial and technical assistance for  
15 historic preservation projects;
- 16          (11)    Make recommendations on the certification and eligibility of historic  
17 properties for tax incentives and other programs of public assistance;
- 18          (12)    Provide public information, education, and training relating to  
19 historic preservation;
- 20          (13)    Encourage public interest and participation in historic preservation;
- 21          (14)    Advise and assist the State Historic Preservation Officer on matters  
22 relating to the implementation of the officer's responsibilities;
- 23          (15)    Advise the Governor and General Assembly on matters relating to  
24 historic preservation; and
- 25          (16)    Submit annually to the Governor and, subject to § 2-1246 of the State  
26 Government Article, to the General Assembly a report of its activities during the  
27 preceding year together with any recommendations for actions that, in the judgment  
28 of the Trust are necessary and appropriate to further the purposes of the Trust.
- 29   (c)    (1)     Except as otherwise may be provided in this subtitle, any income and  
30 fees received by the Trust that are unexpended at the end of a fiscal year may not  
31 revert to the General Fund of the State, but instead, shall be maintained as special  
32 funds available to the Trust for carrying out the purposes of this subtitle.
- 33          (2)     The income and fees referred to in paragraph (1) of this subsection  
34 include, without limitation, fees authorized under this subtitle and income from  
35 educational and other preservation materials, activities, and services of the Trust.

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

3 3-408.

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

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

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

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

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

15 (C) Eight trustees shall constitute a quorum.

16 3-409.

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

19 (b) The Director shall:

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

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

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

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

27 (e) Positions with the Trust are special appointments in the State Personnel  
28 Management System.

29 (f) Under direction of the trustees, the Director shall perform the duties and  
30 functions prescribed by the trustees.

1 3-410.

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

5 3-411.

6 (a) The Trust may not dispose of any property transferred by the State to the  
7 Trust or purchased with funds paid by the State without the approval of the Board of  
8 Public Works.

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

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

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

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

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

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

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

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

27 3-412.

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

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

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

3 (2) The disposition may include division of the recovered property with  
4 the permittee.

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

11 3-413.

12 (a) There is a Historic Preservation Loan Program of the Trust, known as the  
13 MHT Loan Program.

14 (b) The purpose of the MHT Loan Program is to implement and encourage the  
15 preservation of historic properties.

16 (c) The Trust shall:

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

18 (2) Coordinate the MHT Loan Program with federal or State programs  
19 that complement or facilitate carrying out the MHT Loan Program.

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

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

23 (i) Acquiring, rehabilitating, or restoring historic properties; or

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

30 (2) To cover administrative costs directly related to the MHT Loan  
31 Program;

32 (3) To fund the purchase or acquisition by the Trust of historic properties  
33 or partial interests in historic properties for use in accordance with the Trust's  
34 authorized purposes or for resale or lease subject to appropriate preservation  
35 covenants; and



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

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

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

10                   (i)     The the principal amount;

11                   (ii)    The maturity;

12                   (iii)   The repayment terms; and

13                   (iv)    The interest rate, which:

14                           1.     Must comply with federal regulations governing the  
15 borrowing of moneys by the State, if applicable; and

16                           2.     May be at a preferred rate in relation to rates for similar  
17 loans made at the time under the MHT Loan Program if:

18                                   A.     The recipient is a nonprofit organization or a local  
19 jurisdiction; or

20                                   B.     [Upon] ON conclusion of any scheduled restoration or  
21 rehabilitation of the historic property, it will be occupied in whole or in part by  
22 individuals or families of limited income as determined by the Secretary [under §  
23 2-203 of this article].

24           (2)     (i)     Loans made under the MHT Loan Program may be secured by  
25 mortgage liens, which may be subordinate to other mortgage liens, guarantees of  
26 repayment, or other forms of collateral acceptable to the Trust.

27                   (ii)    Without approval or execution by the Board of Public Works, the  
28 Trust may take title to a mortgaged property by foreclosure or by deed in lieu of  
29 foreclosure, and thereafter:

30                           1.     Convey title to a buyer; and

31                           2.     Obtain and seek enforcement of a deficiency judgment.

32           (3)     Loans to individuals and business entities may be made only if  
33 private financing cannot otherwise be obtained as shown by documentation in  
34 accordance with the regulations.

35     (g)     The Trust shall:

1 (1) Ensure that funding under the MHT Loan Program for the  
2 acquisition, restoration, or rehabilitation of historic properties is utilized only if the  
3 property has been listed in or is eligible for the Maryland Register of Historic  
4 Properties; and

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

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

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

15 (i) Application procedures;

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

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

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

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

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

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

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

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

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

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

4 (ii) Any moneys received from the sale of State general obligation  
5 bonds;

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

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

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

13 (vi) The proceeds from the resale or lease of any properties  
14 originally acquired by the Trust with moneys from the MHT Loan Fund or the Capital  
15 Revolving 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 Loan Fund.

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

20 [(3)] (4) The MHT Loan Fund is a special fund within the meaning of §  
21 10-306 of the State Finance and Procurement Article of the Code.

22 [(4)] (5) On or before December 31 of each year, the Trust shall report to  
23 the Governor and, subject to § 2-1246 of the State Government Article, to the General  
24 Assembly the financial status of the MHT Loan Program and a summary of its  
25 operations for the preceding fiscal year.

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

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

34 3-414.

35 (a) There is a Historic Preservation Grant Program of the Trust, known as the  
36 MHT Grant Program.

1 (b) The purpose of the MHT Grant Program is to implement and encourage  
2 the preservation of historic properties as well as promote interest in and study of such  
3 matters.

4 (c) The Trust shall:

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

6 (2) Coordinate the MHT Grant Program with federal or State programs  
7 that complement or facilitate carrying out the MHT Grant Program.

8 (d) The MHT Grant Fund may be used for the purposes set forth in [§ 5-705]  
9 § 3-505 of this article and for the following purposes:

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

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

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

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

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

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

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

37 (2) Except for the emergency reserve allocation referred to in paragraph  
38 (3) of this subsection, the trustees' recommendations to the Secretary on the granting

1 of moneys from the MHT Grant Fund to nonprofit organizations, local jurisdictions,  
2 business entities, and individuals shall be based upon a competitive selection process.

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

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

8 (f) The Trust shall:

9 (1) Ensure that funding under the MHT Grant Program for the  
10 acquisition, restoration, or rehabilitation of historic properties is utilized only if the  
11 property has been listed in or is eligible for the Maryland Register of Historic  
12 Properties; and

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

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

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

23 (i) Application procedures;

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

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

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

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

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

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

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

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

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

15    (i)        Moneys appropriated by the State to the MHT Grant Program  
16 or the Historical and Cultural Museum Assistance Program established under [§  
17 5-703] § 3-503 of this article;

18    (ii)       Any moneys received from the sale of State general obligation  
19 bonds;

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

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

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

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

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

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

36    [(4)]      (5)        The MHT Grant Fund is a special fund within the meaning of §  
37 10-306 of the State Finance and Procurement Article of the Code.

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

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

8 3-415.

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

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

12 (c) The Trust shall administer the Fund.

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

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

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

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

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

22 (i) The form and text of historic markers established under this  
23 section; and

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

26 (2) The unit of State or local government responsible for operation and  
27 maintenance of public highway and street rights-of-way shall approve the location  
28 and manner of installation of historic markers on public highway and street  
29 rights-of-way.

30 (f) The Fund shall consist of:

31 (1) Funds authorized in the State budget;

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

34 (3) Funds from any other source.

1 3-416.

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

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

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

6 (2) The State Treasurer shall hold and the State Comptroller shall  
7 account for the Fund.

8 [(2)] (3) The Fund shall be invested and reinvested[. Any] AND ANY  
9 interest or other investment earnings of the Fund shall be credited and paid into the  
10 Fund.

11 [(3)] (4) If cash is received as consideration for the disposition of a  
12 capital asset purchased with funds from [this special fund] THE FUND, [that] THE  
13 cash shall be applied to the [special fund] FUND as provided by § 10-306(c)(2) of the  
14 State Finance and Procurement Article.

15 [(4)] (5) No part of the [Lighthouse Preservation Special] Fund may  
16 revert or be credited to the General Fund or any other special fund of the State.

17 (d) The Maryland Historical Trust may:

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

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

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

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

27 (ii) For Maryland lighthouse preservation, education, and  
28 promotion; and

29 (iii) To compensate staff employed by the Trust to administer the  
30 Fund.

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

33 (f) On or before January 30 of each year, the Maryland Historical Trust shall  
34 report to the Governor and, subject to § 2-1246 of the State Government Article, to



1 the budget committees of the General Assembly on the financial status of the Fund  
2 during the preceding fiscal year.

3 3-417.

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

8 (b) (1) The Trust shall compile a Maryland Register of Historic Properties  
9 which shall include all properties listed in or determined by the Director to be eligible  
10 for listing in the National Register of Historic Places by the United States  
11 Department of the Interior.

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

15 (c) Determinations of eligibility made by the Director may be appealed to the  
16 Governor's Consulting Committee on the National Register of Historic Places whose  
17 determination shall be final.

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

22 3-418.

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

24 (b) The Council shall consist of [7] SEVEN voting members appointed by the  
25 Governor:

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

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

28 (3) The Secretary of Transportation, ex officio;

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

30 (5) [2] TWO individuals with expertise in architecture, history,  
31 archeology, or other appropriate discipline relating to historic preservation; and

32 (6) [1] ONE individual from the general public.

33 (c) A cabinet member on the Council may designate the deputy secretary of  
34 the represented department to act in the Secretary's absence.

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

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

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

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

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

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

12 (3) A member of the Council[:

13 (i) May] MAY not receive compensation[;], but

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

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

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

19 3-419.

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

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

27 (2) To the extent feasible, prior to submission of a request for a capital  
28 project to the Department of Budget and Management under § 3-602 of the State  
29 Finance and Procurement Article [of the Code], or prior to or as part of the final  
30 project planning phase for a major transportation capital project as defined in §  
31 2-103.1 of the Transportation Article, the requesting or responsible State unit shall  
32 consult with the Trust to determine if the proposed capital project [or projects] will  
33 adversely affect any property listed in or eligible for the Maryland Register of Historic  
34 Properties.

35 (3) To the extent not otherwise reviewed by the Trust under this section,  
36 prior to approval of the use of the proceeds of State general obligation bonds by the

1 Board of Public Works, the Department of Budget and Management, or the  
2 responsible State unit shall consult with the Trust to determine if any nonstate  
3 capital project will adversely affect any property listed in or eligible for the Maryland  
4 Register of Historic Properties.

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

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

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

18 (c) If the Director and the State unit are unable to agree on a plan to avoid,  
19 mitigate, or satisfactorily reduce the adverse effect, the State unit shall submit to the  
20 Council a report of the consultations and the findings and recommendations of the  
21 State unit.

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

24 (1) Comments accepting the adverse effect; or

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

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

29 (2) If the State unit disagrees with the comments of the Council, the  
30 State unit shall:

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

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

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

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

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

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

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

14 3-420.

15 (a) In cooperation with the Trust and subject to available resources, each  
16 State unit shall:

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

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

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

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

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

31 (2) Deposit the results of investigations, records, recovered objects, and  
32 materials with the Trust.

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

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

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

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

8     (e)     A State unit may:

9           (1)     Include the capital costs of preservation activities, excluding studies  
10 and surveys, undertaken pursuant to the requirements of this subtitle as eligible  
11 project costs in any undertaking of the unit or any undertaking with financial  
12 assistance provided by the unit.

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

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

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

23          (2)     [These standards, guidelines, and procedures] THE REGULATIONS  
24 shall minimize the need for Trust review and avoid administrative duplication and  
25 time delays.

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

29 3-421.

30     (a)     Failure by a State unit to comply with the provisions of [§§ 5-617 and  
31 5-618] §§ 3-419 AND 3-420 of this subtitle does not create a private cause of action  
32 under the laws of this State.

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

35 3-422.

36     (a)     [Any] A person may inspect, study, explore, photograph, measure, record,  
37 or otherwise use and enjoy a submerged archaeological historic property on

1 submerged lands over which the State has sovereign control without being required to  
2 obtain a permit if the use or activity:

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

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

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

7       (b)     A person may not excavate, destroy, or substantively injure or disturb a  
8 submerged archaeological historic property on submerged lands over which the State  
9 has sovereign control without a permit from the Trust. Nothing contained in this  
10 subtitle abrogates or supplants any power of the State Highway Administration.

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

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

20           (2)     After an agreement has been entered into pursuant to [§ 5-611.1(c)]  
21 § 3-412(C) of this subtitle, permits may be issued if the Trust determines that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (i) (1) The Trust shall:

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

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

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

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

20 3-423.

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

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

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

29       (b)     Unless the land is controlled by the State within the meaning of [§  
30 5-601(f)] § 3-401(F) of this subtitle, nothing in this subtitle shall be deemed to limit or  
31 prohibit the use of privately owned land by the owner of such land, or by a guest of the  
32 owner, or to require the owner or guest to obtain a permit from the Trust for  
33 excavation or any other activity on [such] THE privately owned land.

34       (c)     A person who knows the location of any archaeological site in the State is  
35 encouraged to communicate the information to a reputable museum, an institution of  
36 higher education, a recognized scientific or historical institution or organization, or  
37 the Trust.

38 3-424.

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



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

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

6           [(2)] (4)     Each archaeologist employed under this subsection shall  
7 possess an advanced degree in archaeology or a closely related field from an  
8 accredited college or university.

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

13           (2)     The employees may be assigned archaeological-related functions  
14 within other units of the Trust but shall remain staff members of the Archaeology  
15 Office.

16 3-425.

17       (a)     The Archaeology Office shall:

18           (1)     Include a research unit that will engage in, and direct fundamental  
19 research into the archaeology of the State, synthesize existing research data, and  
20 encourage archaeological research and investigation undertaken by any scientific or  
21 historical institution or organization, museum, or institution of higher education in  
22 the State;

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

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

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

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

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

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

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

5 (9) Disseminate archaeological facts and materials through publication  
6 of reports of archaeological research and investigation;

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

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

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

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

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

27 (2) Archaeologists performing projects governed by State or federal  
28 statutes or regulations administered by the Trust or the State Historic Preservation  
29 Officer shall adhere to those goals or objectives to the extent required by pertinent  
30 statutes or regulations.

31 3-426.

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

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

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

- 1 (I) [representatives] REPRESENTATIVES of reputable  
2 museums[.];
- 3 (II) [institutions] INSTITUTIONS of higher education[.];
- 4 (III) [recognized] RECOGNIZED scientific or historical societies or  
5 institutions; and
- 6 (IV) [qualified] QUALIFIED private firms that provide  
7 archaeological services.
- 8 (4) The Committee shall choose a chairman.
- 9 (5) There shall be at least four meetings a year held at [the call of]  
10 TIMES DETERMINED BY the chairman.
- 11 (6) The Chief Archaeologist or at least one of the State Archaeologists  
12 referred to in [§ 5-622] § 3-424 of this subtitle shall attend all Advisory Committee  
13 meetings.
- 14 (b) (1) The members of the Committee shall serve terms of 3 years.
- 15 (2) The terms of these members are staggered as required by the terms  
16 of the members serving on July 1, 1990.
- 17 (3) A member appointed to fill a vacancy in an unexpired term or to  
18 succeed a member who is holding over serves only for the remainder of the term.
- 19 (4) A member appointed to serve a term of less than 3 years for the  
20 purpose of implementing staggered terms[,] may be reappointed to serve a full  
21 3-year term.
- 22 (c) The members of the Committee shall serve without compensation, but  
23 each member shall be reimbursed for expenses incurred while actually engaged in the  
24 performance of duties in accordance with the Standard State Travel Regulations as  
25 provided in the State budget.
- 26 (d) The Committee shall advise and assist the Archaeology Office on  
27 archaeological matters and shall review policies, plans, and rules and regulations  
28 regarding archaeological matters.
- 29 (e) After consultation with the Committee, the Secretary shall advise the  
30 Governor regarding the appointment of trustees qualified in the field of archaeology.  
31 3-427.
- 32 (A) A person may not excavate, appropriate, injure, or destroy any terrestrial  
33 archaeological site on land the State owns or controls without a permit from the  
34 Trust.

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

3 3-428.

4 (A) The Trust may grant a permit for archaeological excavation of a terrestrial  
5 archaeological site on land the State owns or controls to [any] A person [or  
6 institution who or which] THAT in the Trust's judgment is qualified to conduct an  
7 excavation to gather objects and materials of historical or archaeological value or  
8 interest.

9 (B) (1) The Trust may adopt [and promulgate rules and] regulations for  
10 terrestrial archaeological excavation.

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

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

17 3-429.

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

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

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

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

36 (i) Descendants of the deceased; or

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

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

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

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

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

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

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

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

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

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

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

28 3-430.

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

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

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

4                                   1.       The permit may be issued for a period of up to 2 years and  
5 may be renewed at expiration.

6                                   2.       The permit is not transferable but does not preclude  
7 persons from working under the direct supervision of the person holding the permit.

8                                   3.       A person applying for a permit shall:

9                                   A.       Be trained in archaeology;

10                                  B.       Provide a detailed statement to the Trust giving the  
11 reasons and objectives for excavation or removal and the benefits expected to be  
12 obtained from the contemplated work;

13                                  C.       Agree to provide data and results to the Trust of any  
14 excavation, study, or collection in accordance with the terms of the permit;

15                                  D.       Obtain the prior written permission of the owner; and

16                                  E.       Agree to carry the permit while exercising the privileges  
17 granted.

18                   (ii)     Any object or material of archaeological, prehistoric, or historic  
19 value or interest found in a cave on privately owned land is the property of the owner  
20 of the land.

21     (c)     If any person using a cave for recreational or scientific purposes with the  
22 prior consent of the owner and without any charge for [such] THE use made by the  
23 owner sustains any injuries, the owner and his authorized agents acting within the  
24 scope of their authority shall not be liable for those injuries sustained.

25 3-431.

26     (a)     The Director is empowered to enforce the provisions of this subtitle  
27 relating to terrestrial archaeological historic property and archaeological historic  
28 property found in caves in the same manner as provided in [§ 5-620(g)] § 3-422(G) of  
29 this subtitle for submerged archaeological historic property.

30     (b)     If the Director takes any enforcement action under this section, the  
31 Director shall provide notice that a hearing will be held by the Secretary in  
32 accordance with the contested case procedures adopted under § 10-204 of the State  
33 Government Article within 30 days of the action unless a different time period has  
34 been agreed upon by the parties.

1 3-432.

2 (a) (1) [Any] A person or entity who violates [§§ 5-620] §§ 3-422 and  
3 [5-625] 3-427 through [5-628] 3-430 of this subtitle or any regulation adopted under  
4 it shall be guilty of a misdemeanor and [upon] ON conviction [is] subject to  
5 IMPRISONMENT NOT EXCEEDING 30 DAYS OR a fine not [to exceed] EXCEEDING  
6 \$1,000 [or imprisonment for a term not to exceed 30 days,] or both, with costs  
7 imposed at the discretion of the court, and, if the person or entity holds a permit  
8 issued under [§ 5-620, § 5-626 or § 5-628] § 3-422, § 3-428, OR § 3-430 of this subtitle,  
9 the permit may be revoked by the court upon request by the Trust.

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

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

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

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

23 Subtitle 5. Historical and Cultural Museum Assistance Program.

24 3-501.

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

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

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

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

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

36 (5) It is desirable that the entire history and heritage of the State be  
37 displayed and interpreted to the public where it happened, creating centers of

1 community pride and dispersing tourist activity throughout the State, since it is  
2 neither feasible nor desirable to try to display that heritage in a single facility at one  
3 location.

4 (b) The General Assembly therefore declares that the public interest is served  
5 by the establishment of a program of financial assistance to help historical and  
6 cultural heritage museums become more accessible to the citizens and visitors of the  
7 State, and to assist the citizenry in better understanding its diverse cultural heritage  
8 by supporting the upgrade, care, research, interpretation, documentation, and display  
9 of the State's irreplaceable historical, and cultural museum collections.

10 3-502.

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

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

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

17 (1) Owns or utilizes tangible inanimate objects;

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

20 (3) Interprets the State's cultural heritage or the State's history, natural  
21 history, or history of science and technology.

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

26 (e) "Operating support" means necessary administrative, technical, and  
27 professional service and related expenses.

28 (F) "PANEL" MEANS THE MUSEUM ASSISTANCE REVIEW PANEL.

29 [(f)] (G) "Program" means the Historical and Cultural Museum Assistance  
30 Program.

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

32 3-503.

33 (a) There is an Historical and Cultural Museum Assistance Program of the  
34 Maryland Historical Trust.



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

3 3-504.

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

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

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

9 (i) The President of the Senate of Maryland or the President's  
10 designee;

11 (ii) The Speaker of the House of Delegates of Maryland or the  
12 Speaker's designee; and

13 (iii) 1 representative of the Executive Branch with functions related  
14 to the purposes of the Program.

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

17 (2) Except for the reserve allocation provided for in [§ 5-705(b)(3)]  
18 3-505(B)(3) of this subtitle, the Panel's recommendations shall be made following a  
19 competitive selection process.

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

23 (d) The Panel shall advise the Secretary and Trust staff regarding Program  
24 policies and activities.

25 3-505.

26 (a) The Trust shall:

27 (1) Manage, supervise, and administer the Program; and

28 (2) Coordinate the Program with federal, State, or private programs that  
29 complement or facilitate carrying out the Program.

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

33 (i) Research related to collections, exhibits or other educational  
34 activities;

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

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

3 (2) The regulations shall include:

4 (i) Application procedures and review processes;

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

7 (iii) [A set of selection] SELECTION criteria which the Review Panel  
8 shall consider in recommending approval of applications for grants and which must  
9 include:

10 1. The relative merits of the project or activities within  
11 identified statewide needs;

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

14 3. The potential for the project to stimulate increased  
15 tourism, attendance, or museum self-sufficiency; and

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

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

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

25 Subtitle 6. Rehabilitation Tax Credits.

26 3-601.

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

28 (2) "Business entity" means a person conducting or operating a trade or  
29 business in the State.

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

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

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

- 1 (ii) Designated as a historic property under local law;
- 2 (iii) 1. Located in a historic district listed on the National  
3 Register of Historic Places or in a local historic district; and
- 4 2. Certified by the Director of the Maryland Historical Trust  
5 as contributing to the significance of the district; or
- 6 (iv) Located in a certified heritage area and which has been  
7 certified by the Maryland Heritage Areas Authority as contributing to the  
8 significance of the certified heritage area.
- 9 (5) "Certified rehabilitation" means rehabilitation of a certified heritage  
10 structure which the Director certifies is substantial rehabilitation in conformance  
11 with the rehabilitation standards of the United States Secretary of the Interior.
- 12 (6) "Director" means the Director of the Maryland Historical Trust.
- 13 (7) "Local historic district" means a district that the governing body of a  
14 county or municipal corporation, or the Mayor and City Council of Baltimore, has  
15 designated under local law as historic.
- 16 (8) "Qualified rehabilitation expenditure" means [any] AN amount that  
17 is properly chargeable to capital account and is expended in the rehabilitation of a  
18 structure that by the end of the taxable year in which the certified rehabilitation is  
19 completed is a certified heritage structure.
- 20 (9) "Substantial rehabilitation" means rehabilitation of a structure for  
21 which the qualified rehabilitation expenditures, during the 24-month period selected  
22 by the taxpayer ending with or within the taxable year, exceed:
- 23 (i) For owner-occupied residential property, \$5,000; or
- 24 (ii) For all other property, the greater of:
- 25 1. The adjusted basis of the structure; or
- 26 2. \$5,000.
- 27 (b) (1) Subject to subsection (c) of this section, for the taxable year in which  
28 a certified rehabilitation is completed, a business entity or an individual may claim a  
29 tax credit in an amount equal to 25% of the taxpayer's qualified rehabilitation  
30 expenditures for the rehabilitation.
- 31 (2) The same tax credit may not be applied more than once against  
32 different taxes.
- 33 (c) If the credit allowed under this section in any taxable year exceeds the  
34 total tax otherwise payable by the business entity or the individual for that taxable  
35 year, the business entity or individual may apply the excess as a credit for succeeding  
36 years until the earlier of:

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

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

4 (d) (1) If a certified heritage structure for which a certified rehabilitation  
5 has been completed is sold or transferred, the amount of any credit unused at the time  
6 of sale or transfer may be transferred to the individual or business entity to which the  
7 building is sold or transferred.

8 (2) If a certified heritage structure for which a certified rehabilitation  
9 has been completed by a nonprofit corporation exempt from taxation is sold or  
10 transferred, the full amount of the credit to which the nonprofit corporation would be  
11 entitled if taxable may be transferred to the purchaser or transferee at the time of the  
12 sale or transfer.

13 (e) A business entity or individual that incurs qualified rehabilitation  
14 expenditures in the rehabilitation of a certified historic structure in a state other than  
15 Maryland may claim a tax credit to the same extent as provided under subsection (b)  
16 of this section if the other state has in effect a reciprocal historic rehabilitation tax  
17 credit program and agreement for taxpayers of that state who rehabilitate historic  
18 structures in Maryland.

19 (f) (1) (i) In this subsection the following words have the meanings  
20 indicated.

21 (ii) "Historic rehabilitation mortgage credit certificate" means a  
22 certificate issued under this subsection by the Director to a business entity or  
23 individual that elects to receive the certificate in lieu of the credit allowed under this  
24 section.

25 (iii) "Qualified purchased heritage structure" means a certified  
26 heritage structure:

27 1. For which a certified rehabilitation has been completed  
28 and as to which the full amount of the credit is unused and could be transferred to the  
29 purchaser under subsection (d) of this section;

30 2. As to which the purchaser is the first purchaser of the  
31 certified heritage structure after the completion of the certified rehabilitation;

32 3. That was purchased within 10 years after the completion  
33 of the certified rehabilitation; and

34 4. All or a part of which within a reasonable period will be  
35 the principal residence of the purchaser.

36 (2) (i) A business entity or an individual may elect to receive a historic  
37 rehabilitation mortgage credit certificate in lieu of the credit otherwise allowable  
38 under this section.

- 1 (ii) An election under this subsection shall be made:
- 2 1. For a qualified purchased heritage structure, on or before  
3 the date of the purchase; and
- 4 2. For any other certified rehabilitation, on or before the date  
5 the certified rehabilitation is completed.
- 6 (iii) An election may not be made under this subsection for a  
7 certified rehabilitation of a certified heritage structure that has been sold or  
8 transferred if the seller or transferor of the structure has claimed any portion of the  
9 credit allowed under this section for the certified rehabilitation.
- 10 (3) If a business entity or individual makes an election under this  
11 subsection, the Director shall issue a historic rehabilitation mortgage credit  
12 certificate to the business entity or individual in a face amount equal to the total  
13 amount of the credit that, but for the election under this subsection, would be  
14 allowable to the business entity or individual with respect to the certified  
15 rehabilitation.
- 16 (4) A business entity or individual may transfer a historic rehabilitation  
17 mortgage credit certificate to a lending institution subject to Maryland tax, including  
18 a nondepository institution, in connection with a loan:
- 19 (i) That is secured by a certified heritage structure; and
- 20 (ii) The proceeds of which may not be used for any purpose other  
21 than the acquisition or rehabilitation of the certified heritage structure.
- 22 (5) A lending institution that accepts a historic rehabilitation mortgage  
23 credit certificate from a business entity or individual shall in exchange provide the  
24 business entity or individual an amount equal to the face amount of the historic  
25 rehabilitation mortgage credit certificate, discounted by the amount by which the  
26 lending institution's federal income tax liability is increased as a result of its use of  
27 the historic rehabilitation mortgage credit certificate to offset State taxes under this  
28 subsection, to be allocated, at the borrower's election:
- 29 (i) To reduce the principal amount or to reduce the interest rate on  
30 the loan to result in interest payment reductions substantially equal on a present  
31 value basis to the face amount of the historic rehabilitation mortgage credit  
32 certificate, as discounted; or
- 33 (ii) To reduce the business entity's or individual's cost of purchasing  
34 the certified heritage structure by an amount equal to the face amount of the  
35 certificate, as discounted.
- 36 (6) (i) A lending institution may claim a tax credit under this section  
37 in an amount equal to the face amount specified in a historic rehabilitation mortgage  
38 credit certificate.

1 (ii) If the credit allowed under this subsection in any taxable year  
2 exceeds the total tax otherwise payable by the lending institution for that taxable  
3 year, the lending institution may apply the excess as a credit for succeeding years  
4 until the earlier of:

5 1. The full amount of the excess is used; or

6 2. The expiration of the 10th taxable year after the taxable  
7 year in which the historic rehabilitation mortgage credit certificate is issued.

8 (7) If the amount of the discount retained by a lending institution  
9 exceeds the amount by which the lending institution's federal income tax is increased  
10 as a result of its use of the historic rehabilitation mortgage credit certificate to offset  
11 State taxes under this subsection, the lending institution shall refund the excess to  
12 the business entity or individual and any interest earned by the institution on the  
13 excess.

14 (8) A lending institution that accepts a historic rehabilitation mortgage  
15 credit certificate from a business entity or individual under this subsection shall be  
16 entitled to rely in good faith on the information contained in and used in connection  
17 with obtaining the certificate by the business entity or individual including, without  
18 limitation, the amount of the qualified rehabilitation expenditures.

19 (9) Notwithstanding any provision in this subsection, a lending  
20 institution is not required to accept a historic rehabilitation mortgage credit  
21 certificate from any business entity or individual.

22 (g) The Director and the Maryland Heritage Areas Authority may adopt  
23 regulations to establish procedures and standards for certifying heritage structures  
24 and rehabilitations under this section and for issuance and use of historic  
25 rehabilitation mortgage credit certificates under subsection (f) of this section.

26 (h) (1) In this subsection, "Authority affiliate" has the meaning stated in §  
27 13-701(t) of the Financial Institutions Article.

28 (2) As authorized under § 13-708 of the Financial Institutions Article,  
29 the Maryland Stadium Authority or an Authority affiliate may transfer to any  
30 business entity or individual any credit under this section for qualified rehabilitation  
31 expenditures of the Maryland Stadium Authority or an Authority affiliate.

32 (3) A business entity or individual to whom any credit is transferred by  
33 the Maryland Stadium Authority or an Authority affiliate under this subsection may  
34 claim a tax credit under this section in the full amount of the credit transferred.

35 **Article 20A - Tri-County Council for Western Maryland**

36 4-103.

37 (a) The purpose of the Western Maryland Regional Tourism Bureau is to:

- 1           (1)     Develop regional advertising and marketing programs to disseminate  
2 information about Western Maryland;
- 3           (2)     Stimulate the development of the tourist business in Western  
4 Maryland;
- 5           (3)     Encourage the development of Western Maryland's recreational areas  
6 and facilities;
- 7           (4)     Promote Western Maryland's business and job opportunities through  
8 tourism;
- 9           (5)     Develop public awareness of Western Maryland's heritage and  
10 history;
- 11          (6)     Coordinate and facilitate special events programming for Western  
12 Maryland;
- 13          (7)     Serve as a liaison between the Western Maryland tourism industry,  
14 the Governor, the Department of [Business and Economic Development] TOURISM,  
15 other State agencies, private organizations, and the General Assembly; and
- 16          (8)     Advise the Governor, the Department of [Business and Economic  
17 Development] TOURISM, and the General Assembly on programs affecting the  
18 tourism industry.

19

**Article - Education**

20 24-502.

21       (b)     The General Assembly further states its legislative intent in the enactment  
22 of this subtitle to be as follows:

23           (1)     To facilitate the efficient and effective operation of Historic St. Mary's  
24 City and the State's historical museum and archaeological park at Maryland's first  
25 capital, as well as enhance the capacity and authority of the Commission to preserve,  
26 protect, and appropriately use the historic and archaeological assets of historic St.  
27 Mary's City;

28           (2)     To equip the Historic St. Mary's City Commission with the necessary  
29 and vital managerial discretion to pursue its purpose effectively, with the  
30 understanding that the Commission will contract, as it considers useful and  
31 appropriate both fiscally and managerially, with St. Mary's College of Maryland, or  
32 other entities as may be practical and appropriate, for services such as procurement,  
33 personnel, and accounting, and otherwise collaborate formally and informally with St.  
34 Mary's College, on the use and exchange of expertise and resources, both managerial  
35 and educational, as both entities may determine is prudent and effective, in  
36 advancing the basic mission of each institution;



1           (3)     To grant the Commission authority over its plans, projects, and  
 2 operations, subject to any State and federal laws with respect to the protection of  
 3 historic and archaeological sites of significance to the State, including its status as a  
 4 State historic property and national historic landmark;

5           (4)     To facilitate the support of Historic St. Mary's City by other executive  
 6 departments, including the Maryland Historical Trust in the Department of Housing  
 7 and Community Development, the Museum Services Program located at Jefferson  
 8 Patterson Park Museum, the Financial Assistance Programs [and Office of Tourism]  
 9 in the Department of Business and Economic Development, THE DEPARTMENT OF  
 10 TOURISM, and the Department of Education;

11          (5)     To provide the Historic St. Mary's City Commission with the  
 12 organizational structure and funding mechanisms necessary to more effective  
 13 functioning, and recognize the outdoor history museum and archaeological park  
 14 located on the site of Maryland's first capital, as an educational facility for students  
 15 and visitors of all ages; and

16          (6)     To endorse the Commission's focus on developing the educational  
 17 potential of Historic St. Mary's City, including a closer affiliation with St. Mary's  
 18 College of Maryland, as the most effective way to assure that this unique site with its  
 19 archaeological riches and importance to the history of Maryland and the nation is  
 20 recognized and supported both privately and publicly as Maryland's most important  
 21 historic site, with a view to attaining national recognition for St. Mary's City as a site  
 22 of eminent national historical significance.

23

#### **Article - Financial Institutions**

24 13-1103.

25          (b)     The Authority is an independent unit of government in the Executive  
 26 Branch of government that operates in the Department of [Housing and Community  
 27 Development] TOURISM.

28 13-1104.

29          (a)     The Authority consists of:

30               (1)     The Secretary of [Housing and Community Development] TOURISM,  
 31 who shall serve as Chairman of the Authority;

32               (2)     THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT;

33               [(2)]   (3)     The Secretary of Business and Economic Development;

34               [(3)]   (4)     The Secretary of Higher Education;

35               [(4)]   (5)     The Secretary of Transportation;

36               [(5)]   (6)     The Secretary of Natural Resources;

- 1            [(6)]    (7)    The Secretary of the Department of Planning;
- 2            [(7)]    (8)    The State Historic Preservation Officer; and
- 3            [(8)]    (9)    [Ten] ELEVEN members appointed by the Governor with the  
4 advice and consent of the Senate:
- 5                    (i)       ~~Two~~ THREE of whom shall be elected officials or representatives  
6 of local jurisdictions;
- 7                    (ii)      Two of whom shall be appointed from names recommended by  
8 the President of the Maryland Senate;
- 9                    (iii)     Two of whom shall be appointed from names recommended by  
10 the Speaker of the House of Delegates;
- 11                   (iv)      One of whom is a public member of the Maryland Greenways  
12 Commission;
- 13                   (v)      One of whom is a public member of the Maryland Tourism  
14 Development Board;
- 15                   (vi)      One of whom is a member of the public who has significant  
16 education or experience in historic preservation; and
- 17                   (vii)     One of whom is a member of the public who has significant  
18 education or experience in heritage tourism.

19 13-1106.

20        (a)       In accordance with the State budget, the Division of Historical and  
21 Cultural Programs within the Department of [Housing and Community  
22 Development] TOURISM shall dedicate administrative staff for the Authority.

23 13-1110.

24        (c)       The Authority may not designate a heritage area as a recognized heritage  
25 area unless the Authority finds that:

26            (1)       The heritage area contains resources of statewide significance that  
27 have retained integrity of setting and a cohesive character;

28            (2)       The heritage area contains at least one or more:

29                    (i)       Historic districts either listed in, or determined to be eligible for  
30 listing in, the Maryland Register of Historic Properties in accordance with Article  
31 [83B, § 5-615] 83D, § 5-416 of the Code; or

32                    (ii)      Natural or recreational resources determined by the Secretary  
33 of Natural Resources to be of statewide significance; and

1 (3) Public assistance for the heritage area is reasonably expected to  
2 produce additional private investments, job creation, and tourism revenues.

3 13-1112.

4 (a) (1) The State officials under items (i) through (vi) of this subsection who  
5 have program responsibilities that affect aspects of the interpretation, preservation,  
6 development, and use of heritage area resources shall prepare a program statement  
7 detailing actions in the areas of planning, development, use, assistance, and  
8 regulation that support and assist the establishment and management of certified  
9 heritage areas, as follows:

10 (i) Secretary of Housing and Community Development regarding  
11 housing [,] AND neighborhood revitalization [, ];

12 (II) SECRETARY OF TOURISM REGARDING THE STATE TOURISM,  
13 historic preservation, and museum programs;

14 [(ii)] (III) Secretary of Business and Economic Development  
15 regarding the State [tourism program and] economic development and job creation  
16 activities;

17 [(iii)] (IV) Secretary of Natural Resources regarding outdoor  
18 recreation and the management of natural resources, including State greenways;

19 [(iv)] (V) Secretary of Higher Education regarding educational  
20 resources and their interpretation;

21 [(v)] (VI) Secretary of Transportation regarding access to and  
22 transportation within certified heritage areas, including the Scenic Byways Program  
23 and programs for special signage; and

24 [(vi)] (VII) Secretary of General Services regarding the  
25 management and disposition of State property.

26 (2) The State officials shall submit the program statements required  
27 under paragraph (1) of this subsection, and any revisions of the statements, to the  
28 Authority.

29 (b) Units of State government that conduct or support activities affecting a  
30 certified heritage area shall:

31 (1) Consult, cooperate, and to the maximum extent feasible, coordinate  
32 their activities with the unit or entity responsible for the management of each  
33 certified heritage area;

34 (2) To the maximum extent practicable, carry out the activities of the  
35 unit in a manner that is consistent with the approved management plan for the  
36 certified heritage area; and

1 (3) When conducting a review of activities under Article [83B, §§ 5-617  
2 and 5-618] 83D, §§ 5-618 AND 5-619 of the Code, assure that the activities will not  
3 have an adverse effect on the historic and cultural resources of the certified heritage  
4 area, unless there is no prudent and feasible alternative.

5 **Article - State Government**

6 8-201.

7 (a) The Executive Branch of the State government shall have not more than  
8 21 principal departments, each of which shall embrace a broad, functional area of that  
9 Branch.

10 (b) The principal departments of the Executive Branch of the State  
11 government are:

- 12 (1) Aging;
- 13 (2) Agriculture;
- 14 (3) Budget and Management;
- 15 (4) Business and Economic Development;
- 16 (5) the Environment;
- 17 (6) General Services;
- 18 (7) Health and Mental Hygiene;
- 19 (8) Housing and Community Development;
- 20 (9) Human Resources;
- 21 (10) Juvenile Justice;
- 22 (11) Labor, Licensing, and Regulation;
- 23 (12) Natural Resources;
- 24 (13) Planning;
- 25 (14) Public Safety and Correctional Services;
- 26 (15) State Police;
- 27 (16) TOURISM;
- 28 [(16)] (17) Transportation; [and]
- 29 [(17)] (18) Veterans Affairs.

1 SECTION 5. AND BE IT FURTHER ENACTED, That the publishers of the  
2 Annotated Code of Maryland, subject to the approval of the Department of Legislative  
3 Services, shall propose the correction of any agency names and titles throughout the  
4 Code that are rendered incorrect by this Act.

5 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 ~~October 1, 2001~~ July 1, 2002.