
By: **Delegates Branch and Fulton**

Introduced and read first time: January 25, 2002

Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Commission on Indian Affairs - Formal Recognition of Maryland Indian**
3 **Status**

4 FOR the purpose of requiring the Commission on Indian Affairs, after making certain
5 determinations, to make certain recommendations to the Secretary of Housing
6 and Community Development; requiring the Secretary to make certain
7 recommendations to the Governor within a certain period of time; requiring the
8 Governor to propose an executive order to provide formal recognition to a certain
9 tribe, band, group, or clan, upon receiving a recommendation by the Commission
10 on Indian Affairs; providing for formal recognition to a certain tribe, band,
11 group, or clan, without the Governor proposing an executive order under certain
12 circumstances; providing for the application of this Act; and generally relating to
13 the formal recognition of Maryland Indian status.

14 BY repealing and reenacting, with amendments,
15 Article 83B - Department of Housing and Community Development
16 Section 5-406
17 Annotated Code of Maryland
18 (1998 Replacement Volume and 2001 Supplement)

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

21 **Article 83B - Department of Housing and Community Development**

22 5-406.

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

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

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

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

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

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

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

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

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

20 (c) (1) Upon the Commission's determination that a particular tribe, band,
21 group, or clan has met the requirements for recognition set forth in the regulations,
22 the Commission [may recommend] SHALL SUBMIT TO THE SECRETARY, FOR
23 TRANSMITTAL TO THE GOVERNOR, A RECOMMENDATION FOR formal recognition [to
24 the Governor].

25 (2) WITHIN 60 DAYS OF RECEIVING THE COMMISSION'S
26 RECOMMENDATION, THE SECRETARY SHALL TRANSMIT THE RECOMMENDATION FOR
27 FORMAL RECOGNITION TO THE GOVERNOR.

28 [(2)] (3) A Commissioner may not vote or participate in any way in the
29 deliberations with respect to any application for formal recognition of Maryland
30 Indian status made by an Indian tribe, band, group, or clan of which the
31 Commissioner is a member.

32 (d) (1) [If the Governor concurs with] WITHIN 120 DAYS OF RECEIVING the
33 Commission's recommendation, the Governor [may propose] SHALL FORMALLY
34 RECOGNIZE, by executive [order to provide formal recognition to] ORDER, the
35 particular tribe, band, group, or clan.

36 (2) An executive order [proposed to be] promulgated under this
37 subsection shall first be presented to the Joint Committee on Administrative,
38 Executive, and Legislative Review for review by the members of the Committee. The
39 executive order shall take effect 30 days after submission to the Committee.

1 (3) IF THE GOVERNOR DOES NOT ISSUE AN EXECUTIVE ORDER WITHIN
2 120 DAYS OF RECEIVING THE RECOMMENDATION FOR FORMAL RECOGNITION FROM
3 THE SECRETARY, THE PARTICULAR TRIBE, BAND, GROUP, OR CLAN SHALL RECEIVE
4 FORMAL RECOGNITION WITHOUT AN EXECUTIVE ORDER.

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

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

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

14 (4) NOTHING IN THIS SUBTITLE OR REGULATIONS ADOPTED UNDER
15 THIS SUBTITLE MAY BE CONSTRUED TO PROHIBIT A PARTICULAR TRIBE, BAND,
16 GROUP, OR CLAN FROM RECEIVING FORMAL RECOGNITION BY EXECUTIVE ORDER
17 FROM THE GOVERNOR IF THE COMMISSION HAS RECOMMENDED THE RECOGNITION
18 TO THE GOVERNOR.

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

21 (g) (1) Any person who, in any matter within the scope of this section,
22 knowingly and willfully falsifies or conceals, by any trick, scheme, or device, a
23 material fact, or makes any false, fictitious, or fraudulent statements or
24 representations, or makes or uses any false writing or document, knowing the writing
25 or document contains any false, fictitious, or fraudulent statement or entry, is guilty
26 of a misdemeanor.

27 (2) Except as otherwise provided by law, a person who violates this
28 section is subject to a fine of not more than \$1,000, or imprisonment for not more than
29 6 months, or both.

30 (h) The provisions of this section may not be construed to create in the
31 Commission any power to establish criteria for membership in a tribe, band, group, or
32 clan. That power is specifically reserved to the individual tribe, band, group, or clan.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
34 construed to apply retroactively and shall be applied to and interpreted to affect any
35 application that has been recommended by the Commission to the Governor for
36 formal recognition on or after January 1, 2001, and on which the Governor has not
37 taken any action by October 1, 2002.

38 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
39 October 1, 2002.