

SENATE BILL 1

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2003 Regular Session
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(PRE-FILED)

By: **The President (Department of Legislative Services - Code Revision)**

Requested: July 1, 2002

Introduced and read first time: January 8, 2003

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable

Senate action: Adopted

Read second time: February 14, 2003

CHAPTER _____

1 AN ACT concerning

2 **Public Safety**

3 FOR the purpose of adding a new article to the Annotated Code of Maryland, to be
4 designated and known as the "Public Safety Article", to revise, restate, and
5 recodify the laws of the State relating to: benefits for certain employees killed in
6 the performance of duty, the 9-1-1 emergency telephone system, the
7 Department of State Police, police employees and civilian employees in the
8 Department of State Police, the statewide DNA data base system, the Local
9 Division, the Vehicle Theft Prevention Council and the Vehicle Theft Prevention
10 Fund, the Law Enforcement Officers' Bill of Rights, the Police Training
11 Commission, special police officers, the Maryland Railroad Police Act, the
12 Protective Body Armor Fund, the School Bus Safety Enforcement Fund, the Law
13 Enforcement Equipment Fund, the sale, rental, transfer, purchase, possession,
14 or receipt of regulated firearms, regulated firearms dealers' licenses, the
15 purchase or possession of rifles and shotguns, permits to carry, wear, or
16 transport handguns, the Handgun Permit Review Board, the handgun roster
17 and the Handgun Roster Board, the Cease Fire Council and the Cease Fire
18 Council Grant Program, the State Fire Prevention Commission, the State Fire
19 Marshal, mutual aid agreements by fire, rescue, or emergency medical services
20 entities, disability and death benefits for members of volunteer fire companies
21 and rescue squads, length of service award programs, members of fire
22 companies appointed as deputy sheriffs, the Senator William H. Amoss Fire,
23 Rescue, and Ambulance Fund, the Volunteer Company Assistance Fund, county
24 money and loans for volunteer fire companies, smoke detection systems,
25 sprinkler systems, fast response residential fire sprinkler systems, high-rise
26 building safety in case of fire, evacuation procedures in case of fire, disclosure of
27 fire loss investigation reports, fire prevention codes of counties and municipal

1 corporations, fire inspections by fire departments of counties and municipal
2 corporations, fire sprinkler contractors, regulation of fireworks and sparklers,
3 permits to discharge fireworks, licenses to operate fireworks plants, regulation
4 of explosives, licenses to engage in business as manufacturers or dealers of
5 explosives and licenses to possess explosives, the Explosives Advisory Council,
6 administrative search warrants, the Model Performance Code for building
7 construction, the Maryland Accessibility Code, the Minimum Livability Code,
8 standards for industrialized buildings and manufactured homes, installation of
9 safety glazing material in hazardous locations, the Maryland Building
10 Performance Standards, the inspection of electrical installations for
11 conformance with electrical codes, the registration and inspection of elevators,
12 the Elevator Safety Review Board, licenses for elevator contractors and elevator
13 mechanics, the Boiler and Pressure Vessel Safety Act, the Maryland Building
14 Rehabilitation Code and the Maryland Rehabilitation Code Advisory Council,
15 the militia of the State, the Adjutant General, the National Guard, the
16 Maryland Defense Force, courts-martial in the organized militia, the Maryland
17 Emergency Management Act, civil relief during states of emergency, the
18 Governor's powers during public emergencies, other emergency powers and
19 provisions relating to local governing bodies, the State standby petroleum fuel
20 set-aside program, the Interstate Emergency Management and Civil Defense
21 Compact, the Emergency Management Assistance Compact, the Maryland
22 Emergency Management Assistance Compact, compulsory work during states of
23 war, and liability of counties and municipal corporations for damages sustained
24 during riots; transferring certain provisions relating to target practice,
25 discharging a gun or weapon, and hunting, forfeiture for violation of explosives
26 laws, the State Aid for Police Protection Fund, citations for violations on
27 watershed property, and smoking in elevators; transferring to the Session Laws
28 certain provisions relating to deputy and special deputy State fire marshals, the
29 State standby petroleum fuel set-aside program, the enhanced 911 system,
30 allocation of funds in the 911 Trust Fund, implementation of the Maryland
31 Building Performance Standards, and pensions for employees of the Department
32 of State Police; repealing certain obsolete provisions; defining certain terms;
33 providing for the construction and application of this Act; providing for the
34 continuity of certain units and the terms of certain officials; providing for the
35 continuity of the status of certain transactions, employees, rights, duties, titles,
36 interests, licenses, registrations, certifications, and permits; and generally
37 relating to the public safety laws of the State.

38 BY repealing

39 Article 16A - Maryland Emergency Management Agency
40 Section 1 through 12A, inclusive, and the subtitle "Emergency Management"; 13
41 through 16, inclusive, and the subheading "General Provisions"; 17
42 through 21, inclusive, and the subheading "General Relief"; 22 through 25,
43 inclusive, and the subheading "Rent, Instalment Contracts and
44 Mortgages"; 26 and 27 and the subheading "Taxes"; 28 through 31,
45 inclusive, the subheading "Administrative Remedies", and the subtitle
46 "Civil Relief"; 32 through 34, inclusive, and the subtitle "Emergency
47 Powers of Administration"; 35 and the subtitle "County Powers"; and 36

1 and the subtitle "When Powers Become Effective"
2 Annotated Code of Maryland
3 (2001 Replacement Volume and 2002 Supplement)

4 BY repealing

5 Article 23 - Miscellaneous Companies
6 Section 256 through 266, inclusive, and the subtitle "Maryland Railroad Police";
7 and 331 and the subtitle "Uniformed Volunteer Companies"
8 Annotated Code of Maryland
9 (2001 Replacement Volume and 2002 Supplement)

10 BY repealing

11 Article 23A - Corporations - Municipal
12 Section 6
13 Annotated Code of Maryland
14 (2001 Replacement Volume and 2002 Supplement)

15 BY repealing

16 Article 24 - Political Subdivisions - Miscellaneous Provisions
17 Section 5-101 through 5-108, inclusive, and the title "Title 5. Fire Inspection
18 and Permit Fees"
19 Annotated Code of Maryland
20 (2001 Replacement Volume and 2002 Supplement)

21 BY repealing

22 Article 25 - County Commissioners
23 Section 3(w), (w-1), and (gg), 11, 13A through 13D, inclusive; 32.5 and 32.6 and
24 the subtitle "Volunteer Length of Service Award Program"
25 Annotated Code of Maryland
26 (2001 Replacement Volume and 2002 Supplement)

27 BY repealing

28 Article 27 - Crimes and Punishments
29 In its entirety
30 Annotated Code of Maryland
31 (1996 Replacement Volume and 2002 Supplement)

32 BY repealing

33 Article 38A - Fires and Investigations
34 Section 1 through 6A, inclusive, and the subheading "Fire Prevention
35 Commission"; 7(a), (b), (c)(1)(i) and (iii) and (2), and (d), 7A through 12,
36 inclusive, and the subheading "Fire Marshal"; 12A and the subheading
37 "Smoke Detection Systems"; 12B and the subheading "Sprinkler Systems";
38 13 and the subheading "Penalties"; the subtitle "Fire Prevention
39 Commission and Fire Marshal"; 14 and the subtitle "Appeals"; 14A and the
40 subtitle "Baltimore City"; 14B and the subtitle "Chimney Fire Reports"; 15
41 through 25, inclusive, and the subtitle "Fireworks"; 26 through 36,

1 inclusive, and the subtitle "Explosives"; 37 through 41, inclusive, and the
2 subtitle "Mutual Aid Agreements by Fire Companies or Rescue
3 Companies"; 42 through 45, inclusive, and the subtitle "Volunteer
4 Firefighters and Rescue Squadmen"; 45A through 45D, inclusive, and the
5 subtitle "Senator William H. Amoss Fire, Rescue, and Ambulance Fund";
6 46 through 46H, inclusive, and the subtitle "Volunteer Company
7 Assistance Fund"; 47 and the subtitle "Fast Response Residential Fire
8 Sprinkler Systems"; 48 through 50, inclusive, and the subtitle "High-Rise
9 Building Safety"; 53 through 55A, inclusive, and the subtitle "Buildings
10 Housing Occupants Needing Evacuation Assistance"; 56 and 57 and the
11 subtitle "Insurers - Disclosure of Arson Investigation Reports"; 58 and the
12 subtitle "Emergency Lighting and Power Systems for Buildings"; 59
13 through 66, inclusive, and the subtitle "Electrical Code"; 67 and 68 and the
14 subtitle "Miscellaneous"

15 Annotated Code of Maryland
16 (1997 Replacement Volume and 2002 Supplement)

17 BY repealing

18 Article 41 - Governor - Executive and Administrative Departments
19 Section 2-101 through 2-103, inclusive, and the subtitle "Subtitle 1. Governor's
20 Emergency Powers"; 2-403; 4-101 and the subtitle "Subtitle 1. Law
21 Enforcement Equipment Fund"; 4-201 and the subtitle "Subtitle 2. Police
22 Training Commission"; 4-901 through 4-905, inclusive, 4-907 through
23 4-913, inclusive, and the subtitle "Subtitle 9. Special Policemen"; 4-1001
24 through 4-1003, inclusive, and the subtitle "Subtitle 10. Employees Killed
25 in the Line of Duty"; 10-101 and the subtitle "Subtitle 1. Department of
26 Militia"; 10-801 through 10-810, inclusive, the subtitle "Subtitle 8. State
27 Standby Petroleum Fuel Set-Aside", and the title "Title 10. Independent
28 and Miscellaneous Agencies"; the subtitle designation "Subtitle 1. Compact
29 Provisions" in Title 17; and 18-101, 18-102, 18-103, 18-105, 18-106,
30 18-107(a), (b), (c), and (f), 18-108(a), (b), and (c), and the subtitle "Subtitle
31 1. 911 Emergency Telephone System"

32 Annotated Code of Maryland
33 (1997 Replacement Volume and 2002 Supplement)

34 BY repealing

35 Article 48 - Inspections
36 In its entirety
37 Annotated Code of Maryland
38 (1998 Replacement Volume and 2002 Supplement)

39 BY repealing

40 Article 65 - Militia
41 In its entirety
42 Annotated Code of Maryland
43 (1998 Replacement Volume and 2002 Supplement)

1 BY repealing

2 Article 82 - Riots

3 In its entirety

4 Annotated Code of Maryland

5 (1998 Replacement Volume and 2002 Supplement)

6 BY repealing

7 Article 83B - Department of Housing and Community Development

8 Section 6-101 through 6-104, inclusive, and the subtitle "Subtitle 1. Statewide
9 Building and Housing Codes"; 6-201 through 6-208, inclusive, and the
10 subtitle "Subtitle 2. Industrialized Building and Mobile Homes Act"; 6-301
11 through 6-306, inclusive, and the subtitle "Subtitle 3. Safety Glazing";
12 6-401(a) through (h), (j), and (k), 6-402(a), (b), (c)(1), (d), (e), (f), (g), and
13 (h), 6-403 through 6-406, inclusive, and the subtitle "Subtitle 4. Maryland
14 Building Performance Standards"; 6-501 through 6-505, inclusive, and
15 the subtitle "Subtitle 5. Maryland Building Rehabilitation Code"; and the
16 title "Title 6. Building and Material Codes"

17 Annotated Code of Maryland

18 (1998 Replacement Volume and 2002 Supplement)

19 BY repealing

20 Article 87 - Sheriffs

21 In its entirety

22 Annotated Code of Maryland

23 (1998 Replacement Volume and 2002 Supplement)

24 BY repealing

25 Article 88B - Department of State Police

26 Section 1 and 2 and the subtitle "General Provisions"; 3 and 4 and the subtitle
27 "Law Enforcement Duties"; 5 through 12A, inclusive, and the subtitle
28 "Coordinate Duties of Department"; 13 and the subtitle "Regulatory
29 Duties"; 14 through 16, inclusive, and the subtitle "Management of
30 Department"; 17 through 19 and 21 through 24A, inclusive, and the
31 subtitle "Police and Civilian Employees"; 25 through 30A, inclusive, and
32 the subtitle "Miscellaneous Provisions"; 63 and the subtitle "Local
33 Division"; 70 and the subtitle "Licensing of Police Dogs"; 71 through 75,
34 inclusive, and the subtitle "Vehicle Theft Prevention Council and Vehicle
35 Theft Prevention Fund"; 76 through 80, inclusive, and the subtitle "Motor
36 Vehicle Registration Enforcement Fund"; 81 and the subtitle "Cease Fire
37 Council"; and 82 through 86, inclusive, and the subtitle "School Bus Safety
38 Enforcement Fund"

39 Annotated Code of Maryland

40 (1998 Replacement Volume and 2002 Supplement)

41 BY repealing

1 Article 89 - Miscellaneous Business, Work, and Safety Provisions
2 Section 2A and 2B and the subtitle "In General"; 3 through 9, inclusive, and the
3 subtitle "Compulsory Work Law"; 49B and 49C and the subtitle "Elevator
4 Safety"; and the subtitle designation "Public Elevators" immediately
5 preceding Section 64
6 Annotated Code of Maryland
7 (1998 Replacement Volume and 2002 Supplement)

8 BY repealing
9 Article 96 1/2 - Veterans
10 Section 42 and the subtitle "Uniforms"
11 Annotated Code of Maryland
12 (1998 Replacement Volume and 2002 Supplement)

13 BY repealing
14 Article - Criminal Law
15 Section 4-207
16 Annotated Code of Maryland
17 (2002 Volume)

18 BY adding
19 New Article - Public Safety
20 Section 1-101 through 14-511, inclusive, and 14-901 through 14-1004,
21 inclusive, and the various titles
22 Annotated Code of Maryland

23 BY repealing and reenacting, without amendments, and transferring
24 Article 41 - Governor - Executive and Administrative Departments
25 Section 17-101 through 17-105, respectively, and the title "Title 17. Interstate
26 Emergency Management and Civil Defense Compact"; and 19-102 and the
27 title "Title 19. Emergency Management Assistance Compact"
28 Annotated Code of Maryland
29 (1997 Replacement Volume and 2002 Supplement)

30 to be
31 Article - Public Safety
32 Section 14-601 through 14-605, respectively, and the subtitle "Subtitle 6.
33 Interstate Emergency Management and Civil Defense Compact"; and
34 14-702 and the subtitle "Subtitle 7. Emergency Management Assistance
35 Compact"
36 Annotated Code of Maryland

37 BY repealing and reenacting, with amendments, and transferring
38 Article 41 - Governor - Executive and Administrative Departments
39 Section 19-101

1 Annotated Code of Maryland
2 (1997 Replacement Volume and 2002 Supplement)
3 to be
4 Article - Public Safety
5 Section 14-701
6 Annotated Code of Maryland

7 BY repealing and reenacting, without amendments, and transferring
8 Article 16A - Maryland Emergency Management Agency
9 Section 37 through 39, respectively, and the subtitle "Maryland Emergency
10 Management Assistance Compact"
11 Annotated Code of Maryland
12 (2001 Replacement Volume and 2002 Supplement)
13 to be
14 Article - Public Safety
15 Section 14-801 through 14-803, respectively, and the subtitle "Subtitle 8.
16 Maryland Emergency Management Assistance Compact"
17 Annotated Code of Maryland

18 BY repealing and reenacting, with amendments,
19 Article 1 - Rules of Interpretation
20 Section 25
21 Annotated Code of Maryland
22 (2001 Volume and 2002 Supplement)

23 BY adding to
24 Article - Criminal Law
25 Section 4-108
26 Annotated Code of Maryland
27 (2002 Volume)

28 BY adding to
29 Article - Criminal Procedure
30 Section 13-301 to be under the new subtitle "Subtitle 3. Violations of Explosives
31 Laws"
32 Annotated Code of Maryland
33 (2001 Volume and 2002 Supplement)

34 BY repealing and reenacting, with amendments,
35 Article - Natural Resources
36 Section 10-411
37 Annotated Code of Maryland
38 (2000 Replacement Volume and 2002 Supplement)

- 1 BY repealing and reenacting, with amendments, and transferring
2 Article 88B - Department of State Police
3 Section 64 through 69, respectively, and the subtitle "State Aid for Police
4 Protection Fund"
5 Annotated Code of Maryland
6 (1998 Replacement Volume and 2002 Supplement)
7 to be
8 Article 41 - Governor - Executive and Administrative Departments
9 Section 4-401 through 4-406, respectively, and the subtitle "Subtitle 4. State
10 Aid for Police Protection Fund"
11 Annotated Code of Maryland
12 (1997 Replacement Volume and 2002 Supplement)
- 13 BY transferring
14 Article 41 - Governor - Executive and Administrative Departments
15 Section 4-906
16 Annotated Code of Maryland
17 (1997 Replacement Volume and 2002 Supplement)
18 to be
19 Article - Natural Resources
20 Section 8-2003
21 Annotated Code of Maryland
22 (2000 Replacement Volume and 2002 Supplement)
- 23 BY transferring
24 Article 89 - Miscellaneous Business, Work, and Safety Provisions
25 Section 64
26 Annotated Code of Maryland
27 (1998 Replacement Volume and 2002 Supplement)
28 to be
29 Article - Health - General
30 Section 24-212
31 Annotated Code of Maryland
32 (2000 Replacement Volume and 2002 Supplement)
- 33 BY repealing and reenacting, with amendments, and transferring to the Session
34 Laws
35 Article 38A - Fires and Investigations
36 Section 7(c)(1)(ii)
37 Annotated Code of Maryland
38 (1997 Replacement Volume and 2002 Supplement)

1 BY repealing and reenacting, with amendments, and transferring to the Session
2 Laws
3 Article 41 - Governor - Executive and Administrative Departments
4 Section 10-811, 18-104, 18-107(d) and (e), and 18-108(d) and (e)
5 Annotated Code of Maryland
6 (1997 Replacement Volume and 2002 Supplement)

7 BY repealing and reenacting, with amendments, and transferring to the Session
8 Laws
9 Article 83B - Department of Housing and Community Development
10 Section 6-401(i) and 6-402(c)(2), (3), (4), and (5)
11 Annotated Code of Maryland
12 (1998 Replacement Volume and 2002 Supplement)

13 BY repealing and reenacting, with amendments, and transferring to the Session
14 Laws
15 Article 88B - Department of State Police
16 Section 31, 32, 34, 34A, 34B, 35, 36, 36A, and 37, inclusive, and the subtitle
17 "Pensions"
18 Annotated Code of Maryland
19 (1998 Replacement Volume and 2002 Supplement)

20 BY repealing
21 The article designation "Article 16A - Maryland Emergency Management
22 Agency"
23 Annotated Code of Maryland
24 (2001 Replacement Volume and 2002 Supplement)

25 BY repealing
26 The article designation "Article 38A - Fires and Investigations"
27 Annotated Code of Maryland
28 (1997 Replacement Volume and 2002 Supplement)

29 BY repealing
30 The article designation "Article 88B - Department of State Police"
31 Annotated Code of Maryland
32 (1998 Replacement Volume and 2002 Supplement)

33 BY repealing
34 The article designation "Article 89 - Miscellaneous Business, Work, and Safety
35 Provisions"
36 Annotated Code of Maryland
37 (1998 Replacement Volume and 2002 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the following Section(s) of the Annotated Code of Maryland be
3 repealed:

4 Article 16A - Maryland Emergency Management Agency

5 Section 1 through 12A, inclusive, and the subtitle "Emergency Management"; 13
6 through 16, inclusive, and the subheading "General Provisions"; 17
7 through 21, inclusive, and the subheading "General Relief"; 22 through 25,
8 inclusive, and the subheading "Rent, Instalment Contracts and
9 Mortgages"; 26 and 27 and the subheading "Taxes"; 28 through 31,
10 inclusive, the subheading "Administrative Remedies", and the subtitle
11 "Civil Relief"; 32 through 34, inclusive, and the subtitle "Emergency
12 Powers of Administration"; 35 and the subtitle "County Powers"; and 36
13 and the subtitle "When Powers Become Effective"

14 Article 23 - Miscellaneous Companies

15 Section 256 through 266, inclusive, and the subtitle "Maryland Railroad Police";
16 and 331 and the subtitle "Uniformed Volunteer Companies"

17 Article 23A - Corporations - Municipal

18 Section 6

19 Article 24 - Political Subdivisions - Miscellaneous Provisions

20 Section 5-101 through 5-108, inclusive, and the title "Title 5. Fire Inspection
21 and Permit Fees"

22 Article 25 - County Commissioners

23 Section 3(w), (w-1), and (gg), 11, 13A through 13D, inclusive; 32.5 and 32.6 and
24 the subtitle "Volunteer Length of Service Award Program"

25 Article 27 - Crimes and Punishments

26 In its entirety

27 Article 38A - Fires and Investigations

28 Section 1 through 6A, inclusive, and the subheading "Fire Prevention
29 Commission"; 7(a), (b), (c)(1)(i) and (iii) and (2), and (d), 7A through 12,
30 inclusive, and the subheading "Fire Marshal"; 12A and the subheading
31 "Smoke Detection Systems"; 12B and the subheading "Sprinkler Systems";
32 13 and the subheading "Penalties"; the subtitle "Fire Prevention
33 Commission and Fire Marshal"; 14 and the subtitle "Appeals"; 14A and the
34 subtitle "Baltimore City"; 14B and the subtitle "Chimney Fire Reports"; 15
35 through 25, inclusive, and the subtitle "Fireworks"; 26 through 36,
36 inclusive, and the subtitle "Explosives"; 37 through 41, inclusive, and the
37 subtitle "Mutual Aid Agreements by Fire Companies or Rescue
38 Companies"; 42 through 45, inclusive, and the subtitle "Volunteer
39 Firefighters and Rescue Squadsmen"; 45A through 45D, inclusive, and the
40 subtitle "Senator William H. Amoss Fire, Rescue, and Ambulance Fund";
41 46 through 46H, inclusive, and the subtitle "Volunteer Company
42 Assistance Fund"; 47 and the subtitle "Fast Response Residential Fire
43 Sprinkler Systems"; 48 through 50, inclusive, and the subtitle "High-Rise
44 Building Safety"; 53 through 55A, inclusive, and the subtitle "Buildings
45 Housing Occupants Needing Evacuation Assistance"; 56 and 57 and the

1 subtitle "Insurers - Disclosure of Arson Investigation Reports"; 58 and the
2 subtitle "Emergency Lighting and Power Systems for Buildings"; 59
3 through 66, inclusive, and the subtitle "Electrical Code"; 67 and 68 and the
4 subtitle "Miscellaneous"

5 Article 41 - Governor - Executive and Administrative Departments
6 Section 2-101 through 2-103, inclusive, and the subtitle "Subtitle 1. Governor's
7 Emergency Powers"; 2-403; 4-101 and the subtitle "Subtitle 1. Law
8 Enforcement Equipment Fund"; 4-201 and the subtitle "Subtitle 2. Police
9 Training Commission"; 4-901 through 4-905, inclusive, 4-907 through
10 4-913, inclusive, and the subtitle "Subtitle 9. Special Policemen"; 4-1001
11 through 4-1003, inclusive, and the subtitle "Subtitle 10. Employees Killed
12 in the Line of Duty"; 10-101 and the subtitle "Subtitle 1. Department of
13 Militia"; 10-801 through 10-810, inclusive, the subtitle "Subtitle 8. State
14 Standby Petroleum Fuel Set-Aside", and the title "Title 10. Independent
15 and Miscellaneous Agencies"; the subtitle designation "Subtitle 1. Compact
16 Provisions" in Title 17; and 18-101, 18-102, 18-103, 18-105, 18-106,
17 18-107(a), (b), (c), and (f), 18-108(a), (b), and (c), and the subtitle "Subtitle
18 1. 911 Emergency Telephone System"

19 Article 48 - Inspections
20 In its entirety

21 Article 65 - Militia
22 In its entirety

23 Article 82 - Riots
24 In its entirety

25 Article 83B - Department of Housing and Community Development
26 Section 6-101 through 6-104, inclusive, and the subtitle "Subtitle 1. Statewide
27 Building and Housing Codes"; 6-201 through 6-208, inclusive, and the
28 subtitle "Subtitle 2. Industrialized Building and Mobile Homes Act"; 6-301
29 through 6-306, inclusive, and the subtitle "Subtitle 3. Safety Glazing";
30 6-401(a) through (h), (j), and (k), 6-402 (a), (b), (c)(1), (d), (e), (f), (g), and
31 (h), 6-403 through 6-406, inclusive, and the subtitle "Subtitle 4. Maryland
32 Building Performance Standards"; 6-501 through 6-505, inclusive, and
33 the subtitle "Subtitle 5. Maryland Building Rehabilitation Code"; and the
34 title "Title 6. Building and Material Codes"

35 Article 87 - Sheriffs
36 In its entirety

37 Article 88B - Department of State Police
38 Section 1 and 2 and the subtitle "General Provisions"; 3 and 4 and the subtitle
39 "Law Enforcement Duties"; 5 through 12A, inclusive, and the subtitle
40 "Coordinate Duties of Department"; 13 and the subtitle "Regulatory
41 Duties"; 14 through 16, inclusive, and the subtitle "Management of
42 Department"; 17 through 19 and 21 through 24A, inclusive, and the
43 subtitle "Police and Civilian Employees"; 25 through 30A, inclusive, and
44 the subtitle "Miscellaneous Provisions"; 63 and the subtitle "Local
45 Division"; 70 and the subtitle "Licensing of Police Dogs"; 71 through 75,

1 inclusive, and the subtitle "Vehicle Theft Prevention Council and Vehicle
 2 Theft Prevention Fund"; 76 through 80, inclusive, and the subtitle "Motor
 3 Vehicle Registration Enforcement Fund"; 81 and the subtitle "Cease Fire
 4 Council"; and 82 through 86, inclusive, and the subtitle "School Bus Safety
 5 Enforcement Fund"
 6 Article 89 - Miscellaneous Business, Work, and Safety Provisions
 7 Section 2A and 2B and the subtitle "In General"; 3 through 9, inclusive, and the
 8 subtitle "Compulsory Work Law"; 49B and 49C and the subtitle "Elevator
 9 Safety"; and the subtitle designation "Public Elevators" immediately
 10 preceding Section 64
 11 Article 96 1/2 - Veterans
 12 Section 42 and the subtitle "Uniforms"
 13 Article - Criminal Law
 14 Section 4-207

15 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 16 read as follows:

17 **ARTICLE - PUBLIC SAFETY**

18 TITLE 1. DEFINITIONS; GENERAL PROVISIONS.

19 SUBTITLE 1. DEFINITIONS.

20 1-101. DEFINITIONS.

21 (A) IN GENERAL.

22 IN THIS ARTICLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

23 REVISOR'S NOTE: This subsection is new language added as the standard
 24 introductory language to a definition section.

25 (B) COUNTY.

26 "COUNTY" MEANS A COUNTY OF THE STATE OR BALTIMORE CITY.

27 REVISOR'S NOTE: This subsection is standard language added to indicate that
 28 a reference in this article to a "county" includes Baltimore City unless the
 29 reference specifically provides otherwise. *See, e.g.*, IN § 1-101(l), PUC §
 30 1-101(g), CP § 1-101(d), and CR § 1-101(d).

31 Article 1, § 14(a) provides that "county" includes Baltimore City "unless
 32 such construction would be unreasonable". Because the word
 33 "unreasonable" in that section has been interpreted in various ways, the
 34 Public Safety Article Review Committee decided that an explicit definition
 35 of "county" should be included in this article.

1 (C) PERSON.

2 "PERSON" MEANS AN INDIVIDUAL, RECEIVER, TRUSTEE, GUARDIAN, PERSONAL
3 REPRESENTATIVE, FIDUCIARY, REPRESENTATIVE OF ANY KIND, PARTNERSHIP, FIRM,
4 ASSOCIATION, CORPORATION, OR OTHER ENTITY.

5 REVISOR'S NOTE: This subsection is standard language added to provide an
6 express definition of the term "person" in this and other revised articles of
7 the Code. *See, e.g.*, IN § 1-101(dd), CS § 1-101(l), and CP § 1-101(l).

8 The definition of "person" in this subsection does not include a
9 governmental entity or unit. The Court of Appeals of Maryland has held
10 consistently that the word "person" in a statute does not include the State,
11 its units, or subdivisions unless an intention to include these entities is
12 made manifest by the legislature. *See, e.g., Unnamed Physician v.*
13 *Commission on Medical Discipline*, 285 Md. 1, 12-14 (1979).

14 As to the term "personal representative", *see* Art. 1, § 5.

15 (D) STATE.

16 "STATE" MEANS:

17 (1) A STATE, POSSESSION, TERRITORY, OR COMMONWEALTH OF THE
18 UNITED STATES; OR

19 (2) THE DISTRICT OF COLUMBIA.

20 REVISOR'S NOTE: This subsection is standard language added to provide an
21 express definition of the term "state" in this and other revised articles of
22 the Code. *See, e.g.*, IN § 1-101(mm), PUC § 1-101(ff), CS § 1-101(n), CP §
23 1-101(n), and CR § 1-101(i).

24 SUBTITLE 2. EMPLOYEES KILLED IN PERFORMANCE OF DUTY.

25 1-201. REWARD FOR INFORMATION.

26 (A) AUTHORITY OF GOVERNOR TO OFFER REWARD.

27 (1) THE GOVERNOR MAY OFFER A REWARD IN THE NAME OF THE STATE
28 FOR INFORMATION THAT LEADS TO THE ARREST AND CONVICTION OF AN
29 INDIVIDUAL WHO CAUSES THE DEATH OF ANY OF THE FOLLOWING INDIVIDUALS
30 WHO IS KILLED IN THE PERFORMANCE OF DUTY:

31 (I) A LAW ENFORCEMENT OFFICER OF THE STATE OR A POLITICAL
32 SUBDIVISION OF THE STATE;

33 (II) A CAREER OR VOLUNTEER MEMBER OF A FIRE DEPARTMENT
34 OR AMBULANCE OR RESCUE SQUAD; OR

1 (III) A SWORN MEMBER OF THE OFFICE OF STATE FIRE MARSHAL.

2 (2) ON REQUEST OF THE STATE'S ATTORNEY OF THE COUNTY IN WHICH
3 THE DEATH OCCURRED, THE GOVERNOR MAY SET A REWARD FOR THE INFORMATION
4 IN AN AMOUNT NOT EXCEEDING \$25,000 IN EACH CASE.

5 (3) THE DETERMINATION OF THE GOVERNOR OF THE INDIVIDUAL TO
6 WHOM A REWARD IS TO BE PAID IS CONCLUSIVE.

7 (B) AMOUNT INCLUDED IN STATE BUDGET.

8 THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET EACH YEAR THE
9 AMOUNT OF ANY REWARD MADE UNDER THIS SECTION.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 41, § 4-1001.

12 In the introductory language of subsection (a)(1) of this section, the
13 reference to an "individual" who causes death is substituted for the former
14 reference to a "person" because in this context human beings, and not the
15 other entities included in the defined term "person", cause the death of
16 other individuals. Similarly, in subsection (a)(3) of this section, the
17 reference to an "individual" is substituted for the former references to a
18 "person" or "persons" because in this context the reward is paid to a human
19 being.

20 In subsection (a)(1)(ii) of this section, the reference to a "career" member of
21 a fire department or ambulance or rescue squad is substituted for the
22 former reference to a "paid" member for consistency with terminology used
23 throughout this article.

24 In subsection (a)(2) of this section, the reference to the State's Attorney of
25 the "county" in which the death occurred is substituted for the former
26 reference to the State's Attorney of the "political subdivision" in which the
27 death occurred to clarify that counties are the political subdivisions that
28 have State's Attorneys.

29 Also in subsection (a)(2) of this section, the former phrase "on or after
30 March 1, 1990" is deleted as obsolete.

31 Also in subsection (a)(2) of this section, the former reference to the
32 authority of the Governor to "announce" a reward is deleted as implicit in
33 the authority to "set" a reward.

34 In subsection (b) of this section, the former phrase "[w]henver the
35 Governor has determined that any person is entitled to a reward as
36 provided by this section" is deleted as implicit. Presumably the Governor
37 would only include in the State budget an amount to which the Governor
38 determined an individual is entitled.

1 Defined term: "County" § 1-101

2 1-202. DEATH BENEFITS.

3 (A) DEFINITIONS.

4 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.

6 (2) (I) "CHILD" MEANS A NATURAL OR ADOPTED, LEGITIMATE OR
7 ILLEGITIMATE CHILD OR STEPCHILD OF THE DECEDENT.

8 (II) "CHILD" INCLUDES A CHILD OR STEPCHILD BORN
9 POSTHUMOUSLY.

10 (3) "CORRECTIONAL OFFICER" HAS THE MEANING STATED IN §
11 8-201(E)(1) OF THE CORRECTIONAL SERVICES ARTICLE.

12 (4) (I) "LAW ENFORCEMENT OFFICER" HAS THE MEANING STATED IN §
13 3-101 OF THIS ARTICLE.

14 (II) "LAW ENFORCEMENT OFFICER" INCLUDES:

15 1. AN OFFICER WHO SERVES IN A PROBATIONARY STATUS;
16 AND

17 2. AN OFFICER WHO SERVES AT THE PLEASURE OF THE
18 APPOINTING AUTHORITY OF A COUNTY OR MUNICIPAL CORPORATION.

19 (5) "PERFORMANCE OF DUTIES" INCLUDES, IN THE CASE OF A
20 VOLUNTEER OR CAREER FIREFIGHTER OR RESCUE SQUAD MEMBER:

21 (I) ACTIVELY PARTICIPATING IN FIGHTING A FIRE;

22 (II) GOING TO OR FROM A FIRE;

23 (III) PERFORMING OTHER DUTIES NECESSARY TO THE OPERATION
24 OR MAINTENANCE OF THE FIRE COMPANY;

25 (IV) ACTIVELY PARTICIPATING IN THE AMBULANCE, ADVANCED
26 LIFE SUPPORT, OR RESCUE WORK OF AN ADVANCED LIFE SUPPORT UNIT OR A FIRE,
27 AMBULANCE, OR RESCUE COMPANY, INCLUDING GOING TO OR FROM AN
28 EMERGENCY OR RESCUE; AND

29 (V) PROVIDING EMERGENCY OR RESCUE ASSISTANCE, WHETHER
30 ACTING ALONE OR AT THE DIRECTION OF OR WITH A FIRE, AMBULANCE, OR RESCUE
31 COMPANY OR ADVANCED LIFE SUPPORT UNIT.

32 (6) "STEPCHILD" MEANS A CHILD OF THE SURVIVING SPOUSE WHO WAS
33 LIVING WITH OR DEPENDENT FOR SUPPORT ON THE DECEDENT AT THE TIME OF THE
34 DECEDENT'S DEATH.

1 (B) DEATH BENEFIT.

2 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A DEATH
3 BENEFIT OF \$50,000 SHALL BE PAID TO THE SURVIVING SPOUSE, CHILD, DEPENDENT
4 PARENT, OR ESTATE OF EACH OF THE FOLLOWING INDIVIDUALS WHO IS KILLED OR
5 DIES IN THE PERFORMANCE OF DUTIES ON OR AFTER JULY 1, 1989:

6 (I) A LAW ENFORCEMENT OFFICER;

7 (II) A CORRECTIONAL OFFICER;

8 (III) A VOLUNTEER OR CAREER FIREFIGHTER OR RESCUE SQUAD
9 MEMBER; OR

10 (IV) A SWORN MEMBER OF THE OFFICE OF STATE FIRE MARSHAL.

11 (2) FOR FISCAL YEAR 1999, AND FOR EACH FOLLOWING FISCAL YEAR,
12 THE DEATH BENEFIT PROVIDED IN THE PRIOR FISCAL YEAR SHALL BE ADJUSTED BY
13 ANY CHANGE IN THE CALENDAR YEAR PRECEDING THE FISCAL YEAR IN THE
14 CONSUMER PRICE INDEX (ALL URBAN CUSTOMERS - UNITED STATES CITY AVERAGE
15 - ALL ITEMS), AS PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS.

16 (3) A DEATH BENEFIT UNDER THIS SUBSECTION IS IN ADDITION TO:

17 (I) ANY WORKERS' COMPENSATION BENEFITS;

18 (II) THE PROCEEDS OF ANY FORM OF LIFE INSURANCE,
19 REGARDLESS OF WHO PAID THE PREMIUMS ON THE INSURANCE; AND

20 (III) THE FUNERAL BENEFIT PROVIDED UNDER SUBSECTION (C) OF
21 THIS SECTION.

22 (C) FUNERAL BENEFIT.

23 (1) REASONABLE FUNERAL EXPENSES, NOT EXCEEDING \$10,000, SHALL
24 BE PAID TO THE SURVIVING SPOUSE, CHILD, PARENT, OR ESTATE OF EACH OF THE
25 FOLLOWING INDIVIDUALS WHO IS KILLED OR DIES IN THE PERFORMANCE OF
26 DUTIES:

27 (I) A LAW ENFORCEMENT OFFICER;

28 (II) A CORRECTIONAL OFFICER;

29 (III) A VOLUNTEER OR CAREER FIREFIGHTER OR RESCUE SQUAD
30 MEMBER; OR

31 (IV) A SWORN MEMBER OF THE OFFICE OF STATE FIRE MARSHAL.

32 (2) THE FUNERAL BENEFIT UNDER THIS SUBSECTION SHALL BE
33 REDUCED BY THE AMOUNT OF ANY RELATED WORKERS' COMPENSATION BENEFITS
34 PAID UNDER § 9-689 OF THE LABOR AND EMPLOYMENT ARTICLE.

1 (D) FLAG BENEFIT.

2 (1) THE SECRETARY OF STATE SHALL ISSUE A STATE FLAG TO THE
3 FAMILY OF A FIREFIGHTER, POLICEMAN, OR SWORN MEMBER OF THE OFFICE OF
4 STATE FIRE MARSHAL WHO IS KILLED IN THE PERFORMANCE OF DUTY.

5 (2) THE FLAG SHALL BE PRESENTED TO THE FAMILY OF THE DECEASED
6 BY THE STATE SENATOR OF THE LEGISLATIVE DISTRICT IN WHICH THE DECEASED
7 RESIDED OR SERVED.

8 (E) DISCRETIONARY DEATH BENEFIT.

9 ON A CASE-BY-CASE BASIS, THE SECRETARY OF PUBLIC SAFETY AND
10 CORRECTIONAL SERVICES MAY AWARD A DEATH BENEFIT UNDER THIS SECTION IF:

11 (1) THE DECEDENT'S DEATH WAS CAUSED BY THE DECEDENT'S
12 INTENTIONAL MISCONDUCT;

13 (2) THE DECEDENT INTENDED TO BRING ABOUT THE DECEDENT'S
14 DEATH; OR

15 (3) THE DECEDENT'S VOLUNTARY INTOXICATION WAS THE PROXIMATE
16 CAUSE OF THE DECEDENT'S DEATH.

17 (F) RECIPIENTS OF BENEFITS.

18 IF THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
19 DETERMINES THAT THE BENEFITS UNDER THIS SECTION ARE TO BE PAID, THE
20 BENEFITS SHALL BE PAID:

21 (1) TO THE DECEDENT'S SURVIVING SPOUSE;

22 (2) IF NO INDIVIDUAL IS ELIGIBLE UNDER ITEM (1) OF THIS
23 SUBSECTION, TO EACH SURVIVING CHILD OF THE DECEDENT IN EQUAL SHARES;

24 (3) (I) FOR A DEATH BENEFIT UNDER SUBSECTION (B) OF THIS
25 SECTION, IF NO INDIVIDUAL IS ELIGIBLE UNDER ITEM (1) OR (2) OF THIS
26 SUBSECTION, TO THE DECEDENT'S SURVIVING PARENT, IF THE PARENT WAS A
27 DEPENDENT AS DEFINED IN § 152 OF THE INTERNAL REVENUE CODE; OR

28 (II) FOR ANY OTHER BENEFIT UNDER THIS SECTION, IF NO
29 INDIVIDUAL IS ELIGIBLE UNDER ITEM (1) OR (2) OF THIS SUBSECTION, TO THE
30 DECEDENT'S SURVIVING PARENT; OR

31 (4) IF NO INDIVIDUAL IS ELIGIBLE UNDER ITEM (1), (2), OR (3) OF THIS
32 SUBSECTION, TO THE DECEDENT'S ESTATE.

33 (G) MONEY INCLUDED IN STATE BUDGET.

34 PAYMENTS UNDER THIS SECTION SHALL BE MADE OUT OF MONEY THAT THE
35 GOVERNOR INCLUDES FOR THAT PURPOSE IN THE STATE BUDGET.

1 (H) APPEAL.

2 A PERSON AGGRIEVED BY A FINAL DECISION OF THE SECRETARY OF PUBLIC
3 SAFETY AND CORRECTIONAL SERVICES UNDER THIS SECTION MAY SEEK JUDICIAL
4 REVIEW AS PROVIDED FOR REVIEW OF FINAL DECISIONS IN TITLE 10, SUBTITLE 2 OF
5 THE STATE GOVERNMENT ARTICLE.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 38A, § 44 and Art. 41, §§ 4-1002 and 4-1003.

8 Subsection (a)(2)(i) of this section is revised to clarify that "legitimate"
9 children as well as illegitimate children are covered by the defined term
10 "child".

11 Subsection (a)(2)(ii) of this section is revised as an "includes" definition,
12 rather than a "means" definition, because the definition of "child" as
13 including a child or stepchild born posthumously is meant to be illustrative
14 rather than exhaustive. *See* Art. 1, § 30.

15 Subsection (a)(3) of this section is revised for clarity to track the definition
16 of "correctional officer" from the Correctional Services Article.
17 Consequently, the former definition of "correctional unit", former Art. 41, §
18 4-1002(a)(5), is deleted as unnecessary because the term is not used in the
19 revision.

20 Subsection (a)(4)(i) of this section is revised to track the definition of "law
21 enforcement officer" from Title 3, Subtitle 1 of this article. That definition,
22 from the Law Enforcement Officers' Bill of Right (LEOBR), does not
23 include an officer serving in a probationary status or an officer who serves
24 at the pleasure of the appointing authority of a county or municipal
25 corporation. Those officers, therefore, are included as part of the definition
26 of "law enforcement officer" in subsection (a)(4)(ii) of this section. The
27 LEOBR definition of "law enforcement officer" does include the security
28 forces of the Department of General Services, the special police of the
29 Department of Health and Mental Hygiene, and a sheriff or deputy sheriff
30 of Baltimore City. Consequently, those officers are not included in the
31 definition of "law enforcement officer" and former Art. 41, §
32 4-1002(a)(2)(iv), (v), and (vi) are deleted as unnecessary.

33 In subsection (a)(4)(ii)2 of this section, the reference to a "municipal
34 corporation" is substituted for the former reference to an "incorporated
35 municipality" for consistency with Art. XI-E of the Maryland Constitution.

36 Also in subsection (a)(4)(ii)2 of this section, the former reference to
37 "Baltimore City" is deleted in light of the definition of county in § 1-101 of
38 this article.

39 In the introductory language of subsection (b)(1) of this section, the phrase
40 "[s]ubject to paragraph (2) of this subsection" is added for clarity.

1 %In subsection (b)(1)(i) of this section, the former references to a "sheriff" or
2 "deputy sheriff" are deleted as included in the defined term "law
3 enforcement officer".

4 In subsection (d)(1) of this section, the reference to the "performance" of
5 duty is substituted for the former reference to "line" of duty for consistency
6 throughout this section.

7 Also in subsection (d)(1) of this section, the former reference to the
8 Secretary of State "of Maryland" is deleted as implicit.

9 Also in subsection (d)(1) of this section, the former reference to the
10 "Maryland" State flag is deleted as implicit.

11 In subsection (g) of this section, the reference to "money" is substituted for
12 the former reference to "funds" for consistency throughout this article.

13 Defined terms: "County" § 1-101

14 "Person" § 1-101

15 SUBTITLE 3. 9-1-1 EMERGENCY TELEPHONE SYSTEM.

16 1-301. DEFINITIONS.

17 (A) IN GENERAL.

18 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

19 REVISOR'S NOTE: This subsection is new language derived without
20 substantive change from the introductory language of former Art. 41, §
21 18-101(f).

22 The former reference to "terms" is deleted as unnecessary in light of the
23 reference to "words".

24 (B) ADDITIONAL CHARGE.

25 "ADDITIONAL CHARGE" MEANS THE CHARGE IMPOSED BY A COUNTY IN
26 ACCORDANCE WITH § 1-311 OF THIS SUBTITLE.

27 REVISOR'S NOTE: This subsection is new language derived without
28 substantive change from former Art. 41, § 18-101(f)(13).

29 Defined term: "County" § 1-101

30 (C) BOARD.

31 "BOARD" MEANS THE EMERGENCY NUMBER SYSTEMS BOARD.

32 REVISOR'S NOTE: This subsection formerly was Art. 41, § 18-101(f)(3).

1 %No changes are made.

2 (D) COUNTY PLAN.

3 "COUNTY PLAN" MEANS A PLAN FOR A 9-1-1 SYSTEM OR ENHANCED 9-1-1
4 SYSTEM, OR AN AMENDMENT TO THE PLAN, DEVELOPED BY A COUNTY OR SEVERAL
5 COUNTIES TOGETHER UNDER THIS SUBTITLE.

6 REVISOR'S NOTE: This subsection is new language derived without
7 substantive change from former Art. 41, § 18-101(f)(9).

8 The former specific references to "§§ 18-103" and "18-104" of this subtitle
9 are deleted as unnecessary in light of the general reference "under this
10 subtitle".

11 Defined terms: "County" § 1-101

12 "Enhanced 9-1-1 system" § 1-301

13 "9-1-1 system" § 1-301

14 (E) ENHANCED 9-1-1 SYSTEM.

15 "ENHANCED 9-1-1 SYSTEM" MEANS A 9-1-1 SYSTEM THAT PROVIDES:

16 (1) AUTOMATIC NUMBER IDENTIFICATION;

17 (2) AUTOMATIC LOCATION IDENTIFICATION; AND

18 (3) ANY OTHER TECHNOLOGICAL ADVANCEMENTS THAT THE BOARD
19 REQUIRES.

20 REVISOR'S NOTE: This subsection is new language derived without
21 substantive change from former Art. 41, § 18-101(f)(6).

22 The defined term "enhanced 9-1-1 system" is substituted for the former
23 defined term "enhanced 911" for clarity and to reflect more accurately the
24 manner in which the defined term is used throughout this subtitle.

25 In item (3) of this subsection, the former phrase "[a]fter July 1, 1995" is
26 deleted as obsolete.

27 Also in item (3) of this subsection, the former reference to "future"
28 technological advancements is deleted as implicit in the reference to
29 "advancements".

30 Defined terms: "Board" § 1-301

31 "9-1-1 system" § 1-301

32 (F) 9-1-1-ACCESSIBLE SERVICE.

1 "9-1-1-ACCESSIBLE SERVICE" MEANS TELEPHONE SERVICE OR ANOTHER
2 COMMUNICATIONS SERVICE THAT CONNECTS AN INDIVIDUAL DIALING THE DIGITS
3 9-1-1 TO AN ESTABLISHED PUBLIC SAFETY ANSWERING POINT.

4 REVISOR'S NOTE: This subsection is new language derived without
5 substantive change from former Art. 41, § 18-101(f)(15).

6 The reference to an "individual" is substituted for the former reference to a
7 "person" because only an individual, and not the other entities included in
8 the defined term "person", can dial 9-1-1. *See* § 1-101 of this article for the
9 definition of "person".

10 The former phrase "under the 911 system" is deleted as meaningless
11 because a public safety answering point is not "under" the 9-1-1 system.

12 Defined terms: "9-1-1 system" § 1-301

13 "Public safety answering point" § 1-301

14 (G) 9-1-1 FEE.

15 "9-1-1 FEE" MEANS THE FEE IMPOSED IN ACCORDANCE WITH § 1-310 OF THIS
16 SUBTITLE.

17 REVISOR'S NOTE: This subsection formerly was Art. 41, § 18-101(f)(12).

18 The only changes are in style.

19 (H) 9-1-1 SERVICE CARRIER.

20 (1) "9-1-1 SERVICE CARRIER" MEANS A PROVIDER OF WIRELESS
21 TELEPHONE SERVICE OR OTHER 9-1-1-ACCESSIBLE SERVICE.

22 (2) "9-1-1 SERVICE CARRIER" DOES NOT INCLUDE A TELEPHONE
23 COMPANY.

24 REVISOR'S NOTE: This subsection formerly was Art. 41, § 18-101(f)(16).

25 The only change is in style.

26 Defined terms: "9-1-1-accessible service" § 1-301

27 "Wireless telephone service" § 1-301

28 (I) 9-1-1 SYSTEM.

29 (1) "9-1-1 SYSTEM" MEANS TELEPHONE SERVICE THAT:

30 (I) MEETS THE PLANNING GUIDELINES ESTABLISHED UNDER
31 THIS SUBTITLE; AND

32 (II) AUTOMATICALLY CONNECTS AN INDIVIDUAL DIALING THE
33 DIGITS 9-1-1 TO AN ESTABLISHED PUBLIC SAFETY ANSWERING POINT.

1 (2) "9-1-1 SYSTEM" INCLUDES:

2 (I) EQUIPMENT FOR CONNECTING AND OUTSWITCHING 9-1-1
3 CALLS WITHIN A TELEPHONE CENTRAL OFFICE;

4 (II) TRUNKING FACILITIES FROM A TELEPHONE CENTRAL OFFICE
5 TO A PUBLIC SAFETY ANSWERING POINT; AND

6 (III) EQUIPMENT TO CONNECT 9-1-1 CALLS TO THE APPROPRIATE
7 PUBLIC SAFETY AGENCY.

8 REVISOR'S NOTE: This subsection is new language derived without
9 substantive change from former Art. 41, § 18-101(f)(5).

10 In paragraph (1)(ii) of this subsection, the reference to an "individual" is
11 substituted for the former reference to a "person" because only an
12 individual, and not the other entities included in the defined term
13 "person", can dial 9-1-1. *See* § 1-101 of this article for the definition of
14 "person".

15 Also in paragraph (1)(ii) of this subsection, the former specific reference to
16 "§ 18-103" of this subtitle is deleted as unnecessary in light of the general
17 reference "under this subtitle".

18 In paragraph (2)(ii) of this subsection, the reference to a "telephone"
19 central office is added for clarity and consistency with paragraph (2)(i) of
20 this subsection.

21 Defined terms: "Public safety agency" § 1-301

22 "Public safety answering point" § 1-301

23 (J) 9-1-1 TRUST FUND.

24 "9-1-1 TRUST FUND" MEANS THE FUND ESTABLISHED UNDER § 1-308 OF THIS
25 SUBTITLE.

26 REVISOR'S NOTE: This subsection formerly was Art. 41, § 18-101(f)(10).

27 The only changes are in style.

28 (K) PUBLIC SAFETY AGENCY.

29 "PUBLIC SAFETY AGENCY" MEANS:

30 (1) A FUNCTIONAL DIVISION OF A PUBLIC AGENCY THAT PROVIDES FIRE
31 FIGHTING, POLICE, MEDICAL, OR OTHER EMERGENCY SERVICES; OR

32 (2) A PRIVATE ENTITY THAT PROVIDES FIRE FIGHTING, POLICE,
33 MEDICAL, OR OTHER EMERGENCY SERVICES ON A VOLUNTARY BASIS.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 41, § 18-101(f)(8).

3 In item (2) of this subsection, the reference to "fire fighting, police,
4 medical, or other emergency services" is substituted for the former
5 reference to "such services" for clarity.

6 (L) PUBLIC SAFETY ANSWERING POINT.

7 "PUBLIC SAFETY ANSWERING POINT" MEANS A COMMUNICATIONS FACILITY
8 THAT:

9 (1) IS OPERATED ON A 24-HOUR BASIS;

10 (2) FIRST RECEIVES 9-1-1 CALLS IN A 9-1-1 SERVICE AREA; AND

11 (3) AS APPROPRIATE, DISPATCHES PUBLIC SAFETY SERVICES DIRECTLY,
12 OR TRANSFERS 9-1-1 CALLS TO APPROPRIATE PUBLIC SAFETY AGENCIES.

13 REVISOR'S NOTE: This subsection is new language derived without
14 substantive change from former Art. 41, § 18-101(f)(7).

15 In item (2) of this subsection, the former reference to receiving 911 calls
16 "from persons" in a 911 service area is deleted as surplusage.

17 In item (3) of this subsection, the former words "extend" and "relay" are
18 deleted as included in the word "transfers".

19 Defined term: "Public safety agency" § 1-301

20 (M) SECRETARY.

21 "SECRETARY" MEANS THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL
22 SERVICES.

23 REVISOR'S NOTE: This subsection formerly was Art. 41, § 18-101(f)(4).

24 The only change is in style.

25 (N) WIRELESS TELEPHONE SERVICE.

26 (1) "WIRELESS TELEPHONE SERVICE" MEANS PUBLIC TELEPHONE
27 SERVICE THAT:

28 (I) IS PROVIDED FOR TWO WAY VOICE OR DATA COMMUNICATION;

29 (II) IS TRANSMITTED INDEPENDENTLY OF SWITCHED LOCAL
30 EXCHANGE ACCESS TELEPHONE SERVICE; AND

31 (III) MAY BE TRANSMITTED PARTLY VIA CABLE OR WIRE AS PART OF
32 A LARGER TELEPHONE OR CABLE SYSTEM.

- 1 (2) "WIRELESS TELEPHONE SERVICE" INCLUDES:
- 2 (I) CELLULAR TELEPHONE SERVICE (CELLULAR);
- 3 (II) PERSONAL COMMUNICATION SERVICE (PCS); AND
- 4 (III) SPECIALIZED MOBILE RADIO (SMR).
- 5 (3) "WIRELESS TELEPHONE SERVICE" DOES NOT INCLUDE SERVICE
- 6 THAT CANNOT CONNECT AN INDIVIDUAL DIALING THE DIGITS 9-1-1 TO AN
- 7 ESTABLISHED PUBLIC SAFETY ANSWERING POINT.

8 REVISOR'S NOTE: This subsection is new language derived without

9 substantive change from former Art. 41, § 18-101(f)(14).

10 In paragraph (3) of this subsection, the reference to an "individual" is

11 substituted for the former reference to a "person" because only an

12 individual, and not the other entities included in the defined term

13 "person", can dial 9-1-1. *See* § 1-101 of this article for the definition of

14 "person".

15 Also in paragraph (3) of this subsection, the former phrase "under the 911

16 system" is deleted as meaningless because a public safety answering point

17 is not "under" the 9-1-1 system.

18 Defined terms: "9-1-1 system" § 1-301

19 "Public safety answering point" § 1-301

20 REVISOR'S NOTE TO SECTION:

21 Former Art. 41, § 18-101(f)(1), which defined "county" to mean any of the

22 23 counties of Maryland and Baltimore City, is deleted in light of the

23 definition of "county" in § 1-101 of this article to the same effect.

24 Former Art. 41, § 18-101(f)(2), which defined "Comptroller" to mean the

25 Comptroller of the State Treasury, is deleted as unnecessary. The term has

26 a commonly understood meaning, and generally is not defined in revised

27 articles of the Code.

28 Former Art. 41, § 18-101(f)(11), which defined "multicounty" to mean two

29 or more counties which are contiguous, is deleted as obsolete because the

30 term is no longer used in this sense in the law. The term is now used in the

31 sense in which it is commonly used to mean two or more counties and thus

32 a separate definition for this subtitle is unnecessary.

33 1-302. LEGISLATIVE FINDINGS AND DECLARATIONS; PURPOSES OF SUBTITLE.

34 (A) LEGISLATIVE FINDINGS AND DECLARATIONS.

35 THE GENERAL ASSEMBLY:

1 (1) RECOGNIZES THE PARAMOUNT IMPORTANCE OF THE SAFETY AND
2 WELL-BEING OF THE PUBLIC;

3 (2) RECOGNIZES THAT TIMELY AND APPROPRIATE ASSISTANCE MUST
4 BE PROVIDED WHEN THE LIVES OR PROPERTY OF THE PUBLIC IS IN IMMINENT
5 DANGER;

6 (3) RECOGNIZES THAT EMERGENCY ASSISTANCE USUALLY IS
7 SUMMONED BY TELEPHONE, AND THAT A MULTIPLICITY OF EMERGENCY
8 TELEPHONE NUMBERS EXISTED THROUGHOUT THE STATE AND WITHIN EACH
9 COUNTY;

10 (4) WAS CONCERNED THAT AVOIDABLE DELAYS IN REACHING
11 APPROPRIATE EMERGENCY ASSISTANCE WERE OCCURRING TO THE JEOPARDY OF
12 LIFE AND PROPERTY; AND

13 (5) ACKNOWLEDGES THAT THE THREE DIGIT NUMBER, 9-1-1, IS A
14 NATIONALLY RECOGNIZED AND APPLIED TELEPHONE NUMBER THAT MAY BE USED
15 TO SUMMON EMERGENCY ASSISTANCE AND TO ELIMINATE DELAYS CAUSED BY LACK
16 OF FAMILIARITY WITH EMERGENCY NUMBERS AND BY CONFUSION IN
17 CIRCUMSTANCES OF CRISIS.

18 (B) PURPOSES OF SUBTITLE.

19 THE PURPOSES OF THIS SUBTITLE ARE TO:

20 (1) ESTABLISH THE THREE DIGIT NUMBER, 9-1-1, AS THE PRIMARY
21 EMERGENCY TELEPHONE NUMBER FOR THE STATE; AND

22 (2) PROVIDE FOR THE ORDERLY INSTALLATION, MAINTENANCE, AND
23 OPERATION OF 9-1-1 SYSTEMS IN THE STATE.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 41, § 18-101(a) through (e).

26 In subsection (a)(1) of this section, the reference to "the public" is
27 substituted for the former reference to "the citizens of Maryland" for
28 consistency throughout this article. Similarly, in subsection (a)(2) of this
29 section, the reference to "the public" is substituted for the former reference
30 to "its citizens". *See* General Revisor's Note to article.

31 In subsection (a)(3) of this section, the reference to "emergency" assistance
32 is substituted for the former reference to "such" assistance for clarity.

33 In subsection (a)(4) and (5) of this section, the references to emergency
34 "assistance" are substituted for the former references to emergency "aid"
35 for consistency within subsection (a) of this section.

36 In subsection (a)(5) of this section, the former reference to
37 "understandable" confusion is deleted as surplusage.

1 Defined terms: "County" § 1-101

2 "9-1-1 system" § 1-301

3 1-303. EFFECTS OF SUBTITLE.

4 (A) ON PUBLIC SERVICE COMPANIES.

5 (1) THIS SUBTITLE DOES NOT REQUIRE A PUBLIC SERVICE COMPANY TO
6 PROVIDE ANY EQUIPMENT OR SERVICE OTHER THAN IN ACCORDANCE WITH TARIFFS
7 APPROVED BY THE PUBLIC SERVICE COMMISSION.

8 (2) THE PROVISION OF SERVICES, THE RATES, AND THE EXTENT OF
9 LIABILITY OF A PUBLIC SERVICE COMPANY ARE GOVERNED BY THE TARIFFS
10 APPROVED BY THE PUBLIC SERVICE COMMISSION.

11 (B) ON 9-1-1 SERVICE CARRIERS.

12 (1) THIS SUBTITLE DOES NOT REQUIRE A 9-1-1 SERVICE CARRIER TO
13 PROVIDE ANY EQUIPMENT OR SERVICE OTHER THAN THE EQUIVALENT OF THE
14 EQUIPMENT AND SERVICE REQUIRED OF A TELEPHONE COMPANY UNDER
15 SUBSECTION (A) OF THIS SECTION.

16 (2) THIS SUBTITLE DOES NOT EXTEND ANY LIABILITY TO A 9-1-1
17 SERVICE CARRIER.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 41, § 18-106(a) and (b).

20 In subsection (a)(2) of this section, the reference to the "provision" of
21 services is substituted for the former reference to the "furnishing" of
22 services for consistency with subsection (a)(1) of this section.

23 In subsection (b)(1) of this section, the reference to "the equipment and
24 service" required of a telephone company is substituted for the former
25 reference to "that" required of a telephone company for clarity.

26 In subsection (b)(2) of this section, the reference to a 9-1-1 "service"
27 carrier is added for accuracy and consistency with subsection (b)(1) of this
28 section.

29 Defined term: "9-1-1 service carrier" § 1-301

30 1-304. ENHANCED 9-1-1 SYSTEM REQUIRED.

31 (A) IN GENERAL.

32 EACH COUNTY SHALL HAVE IN OPERATION AN ENHANCED 9-1-1 SYSTEM.

33 (B) MULTICOUNTY SYSTEM.

1 IF IMPLEMENTATION IS PRECEDED BY COOPERATIVE PLANNING, THE
2 ENHANCED 9-1-1 SYSTEM REQUIRED UNDER SUBSECTION (A) OF THIS SECTION MAY
3 OPERATE AS PART OF A MULTICOUNTY SYSTEM.

4 (C) SERVICE AVAILABLE THROUGH 9-1-1 SYSTEM.

5 (1) SERVICES AVAILABLE THROUGH A 9-1-1 SYSTEM SHALL INCLUDE
6 POLICE, FIRE FIGHTING, AND EMERGENCY AMBULANCE SERVICES.

7 (2) OTHER EMERGENCY AND CIVIL DEFENSE SERVICES MAY BE
8 INCORPORATED INTO THE 9-1-1 SYSTEM AT THE DISCRETION OF THE COUNTY OR
9 COUNTIES SERVED BY THE 9-1-1 SYSTEM.

10 (D) TELEPHONE NUMBERS FOR EMERGENCY AND NONEMERGENCY CALLS.

11 (1) THE DIGITS 9-1-1 ARE THE PRIMARY EMERGENCY TELEPHONE
12 NUMBER IN THE 9-1-1 SYSTEM.

13 (2) A PUBLIC SAFETY AGENCY WHOSE SERVICES ARE AVAILABLE
14 THROUGH THE 9-1-1 SYSTEM:

15 (I) MAY MAINTAIN A SEPARATE SECONDARY BACKUP TELEPHONE
16 NUMBER FOR EMERGENCY CALLS; AND

17 (II) SHALL MAINTAIN A SEPARATE TELEPHONE NUMBER FOR
18 NONEMERGENCY CALLS.

19 (E) EDUCATIONAL INFORMATION.

20 EDUCATIONAL INFORMATION THAT RELATES TO EMERGENCY SERVICES MADE
21 AVAILABLE BY THE STATE OR A COUNTY:

22 (1) SHALL DESIGNATE THE NUMBER 9-1-1 AS THE PRIMARY
23 EMERGENCY TELEPHONE NUMBER; AND

24 (2) MAY INCLUDE A SEPARATE SECONDARY BACKUP TELEPHONE
25 NUMBER FOR EMERGENCY CALLS.

26 (F) NOTIFICATION AND REFERRAL OF CALLS FOR ASSISTANCE.

27 (1) EACH PUBLIC SAFETY ANSWERING POINT SHALL NOTIFY THE
28 PUBLIC SAFETY AGENCIES IN A COUNTY 9-1-1 SYSTEM OF CALLS FOR ASSISTANCE IN
29 THE COUNTY.

30 (2) WRITTEN GUIDELINES SHALL BE DEVELOPED TO GOVERN THE
31 REFERRAL OF CALLS FOR ASSISTANCE TO THE APPROPRIATE PUBLIC SAFETY
32 AGENCY.

33 (3) STATE, COUNTY, AND LOCAL PUBLIC SAFETY AGENCIES WITH
34 CONCURRENT JURISDICTION SHALL HAVE WRITTEN AGREEMENTS TO ENSURE A

1 CLEAR UNDERSTANDING OF WHICH SPECIFIC CALLS FOR ASSISTANCE WILL BE
2 REFERRED TO WHICH PUBLIC SAFETY AGENCY.

3 (G) COOPERATIVE AGREEMENTS FOR ALLOCATION OF COSTS.

4 COUNTIES, OTHER UNITS OF LOCAL GOVERNMENT, PUBLIC SAFETY AGENCIES,
5 AND PUBLIC SAFETY ANSWERING POINTS MAY ENTER INTO COOPERATIVE
6 AGREEMENTS FOR THE ALLOCATION OF MAINTENANCE, OPERATIONAL, AND
7 CAPITAL COSTS ATTRIBUTABLE TO THE 9-1-1 SYSTEM.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 41, § 18-102.

10 In subsection (a) of this section, the former phrase "[o]n or before July 1,
11 1995" is deleted as obsolete.

12 In subsection (b) of this section, the reference to "the enhanced 9-1-1
13 system required under subsection (a) of this section" is substituted for the
14 former reference to "[t]his system" for clarity.

15 In subsections (c)(2) and (d)(1) of this section, the references to a "9-1-1"
16 system are added for clarity and consistency with the terminology used
17 throughout this subtitle.

18 In subsections (d)(2)(i) and (ii) and (e)(1) and (2) of this section, the
19 references to a "telephone" number are added for clarity.

20 Subsection (f)(1) of this section is revised in the active voice to clarify that
21 it is the duty of public safety answering points to notify public safety
22 agencies of calls for assistance in the county.

23 In subsection (f)(1) of this section, the reference to "calls for assistance" is
24 substituted for the former reference to a "request for service" for
25 consistency with subsection (f)(2) and (3) of this section.

26 Also in subsection (f)(1) of this section, the former requirement that
27 notification of public safety agencies be made "in all cases" is deleted as
28 implicit.

29 In subsection (f)(2) of this section, the requirement that written guidelines
30 "shall be developed" is substituted for the former requirement that "[t]here
31 shall be" written guidelines for clarity. Similarly, in subsection (f)(3) of this
32 section, the requirement that certain entities "shall have" written
33 agreements is substituted for the former requirement that "there shall be"
34 written agreements among the entities.

35 Also in subsection (f)(2) of this section, the reference to the "referral" of
36 calls is substituted for the former reference to the "assignment" of calls for
37 clarity and consistency with subsection (f)(3) of this section.

1 Defined terms: "County" § 1-101

2 "Enhanced 9-1-1 system" § 1-301

3 "9-1-1 system" § 1-301

4 "Public safety agency" § 1-301

5 "Public safety answering point" § 1-301

6 1-305. EMERGENCY NUMBER SYSTEMS BOARD.

7 (A) ESTABLISHED.

8 THERE IS AN EMERGENCY NUMBER SYSTEMS BOARD IN THE DEPARTMENT OF
9 PUBLIC SAFETY AND CORRECTIONAL SERVICES.

10 (B) COMPOSITION; APPOINTMENT OF MEMBERS.

11 (1) THE BOARD CONSISTS OF 13 MEMBERS.

12 (2) OF THE 13 MEMBERS:

13 (I) ONE MEMBER SHALL REPRESENT A TELEPHONE COMPANY
14 OPERATING IN THE STATE;

15 (II) ONE MEMBER SHALL REPRESENT THE WIRELESS TELEPHONE
16 INDUSTRY IN THE STATE;

17 (III) ONE MEMBER SHALL REPRESENT THE MARYLAND INSTITUTE
18 FOR EMERGENCY MEDICAL SERVICES SYSTEMS;

19 (IV) ONE MEMBER SHALL REPRESENT THE DEPARTMENT OF STATE
20 POLICE;

21 (V) ONE MEMBER SHALL REPRESENT THE PUBLIC SERVICE
22 COMMISSION;

23 (VI) ONE MEMBER SHALL REPRESENT THE ASSOCIATION OF
24 PUBLIC-SAFETY COMMUNICATIONS OFFICIALS INTERNATIONAL, INC.;

25 (VII) TWO MEMBERS SHALL REPRESENT COUNTY FIRE SERVICES IN
26 THE STATE, WITH ONE MEMBER REPRESENTING CAREER FIRE SERVICES AND ONE
27 MEMBER REPRESENTING VOLUNTEER FIRE SERVICES;

28 (VIII) ONE MEMBER SHALL REPRESENT POLICE SERVICES IN THE
29 STATE;

30 (IX) ONE MEMBER SHALL REPRESENT EMERGENCY MANAGEMENT
31 SERVICES IN THE STATE; AND

32 (X) THREE MEMBERS SHALL REPRESENT THE PUBLIC.

33 (3) THE GOVERNOR SHALL APPOINT THE MEMBERS WITH THE ADVICE
34 AND CONSENT OF THE SENATE.

1 (C) TENURE; VACANCIES.

2 (1) THE TERM OF A MEMBER IS 4 YEARS AND BEGINS ON JULY 1.

3 (2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY
4 THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2003.

5 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
6 SUCCESSOR IS APPOINTED AND QUALIFIES.

7 (4) IF A VACANCY OCCURS AFTER A TERM HAS BEGUN, THE GOVERNOR
8 SHALL APPOINT A SUCCESSOR TO REPRESENT THE ORGANIZATION OR GROUP IN
9 WHICH THE VACANCY OCCURS.

10 (5) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
11 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
12 QUALIFIES.

13 (D) CHAIRPERSON.

14 THE GOVERNOR SHALL APPOINT A CHAIRPERSON FROM AMONG THE BOARD
15 MEMBERS.

16 (E) MEETINGS.

17 THE BOARD SHALL MEET AS NECESSARY, BUT AT LEAST ONCE EACH QUARTER.

18 (F) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

19 A MEMBER OF THE BOARD:

20 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE BOARD;
21 BUT

22 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
23 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

24 (G) STAFF.

25 THE SECRETARY SHALL PROVIDE STAFF TO THE BOARD, INCLUDING A
26 COORDINATOR WHO IS RESPONSIBLE FOR THE DAILY OPERATION OF THE OFFICE OF
27 THE BOARD.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 41, § 18-103(a), (b), (c), (e), (f), (g), and the first
30 sentence of (d).

31 In subsection (b)(2)(i) of this section, the former reference to a telephone
32 "utility" company is deleted for consistency with the terminology used
33 throughout this subtitle.

1 %In subsection (b)(2)(iii) of this section, the reference to the Maryland
2 Institute for Emergency Medical Services "Systems" is added to reflect the
3 proper name of the entity. *See* ED § 13-503(a).

4 In subsection (b)(2)(vi) of this section, the reference to the "Association of
5 Public-Safety Communications Officials International, Inc." is substituted
6 for the former reference to the "Association of Public Safety
7 Communications Officers" to reflect the current name of the organization.

8 In subsection (b)(2)(ix) of this section, the reference to emergency
9 management services "in the State" is added for clarity and consistency
10 within subsection (b)(1) of this section.

11 Subsection (b)(3) of this section is revised in the active voice to clarify that
12 it is the duty of the Governor to appoint the members of the Board.

13 In subsection (c)(1) of this section, the reference to a Board member's term
14 "begin[ning] on July 1" is added to conform to the practice of the Board.

15 In subsection (c)(2) of this section, the reference to terms being staggered
16 as required by the terms provided for Board members on "October 1, 2003"
17 is substituted for the former obsolete reference to staggering as required by
18 the terms provided for Board members on "July 1, 1983". This substitution
19 is not intended to alter the term of any member of the Board. *See* § ___ of
20 Ch. ___, Acts of 2003.

21 In subsection (c)(3) and (5) of this section, the references to a Board
22 member continuing to serve until a successor is appointed "and qualifies"
23 is added for accuracy and to conform to similar provisions in other revised
24 articles of the Code.

25 In subsection (c)(5) of this section, the reference to "[a] member who is
26 appointed after a term has begun" serving "only" for the rest of the term is
27 substituted for the former reference to a successor "who" serves for the rest
28 of the term to conform to similar provisions in other revised articles of the
29 Code.

30 Subsection (f) of this section is revised in standard language used to
31 describe the compensation and reimbursement of expenses of members of a
32 board.

33 In subsection (g) of this section, the reference to a "coordinator who" is
34 responsible for the daily operation of the Board's office is substituted for
35 the former reference to a "coordinator position which" is responsible for the
36 daily operation of the Board's office to clarify that it is an individual, and
37 not a position, who has a responsibility under this subsection.

38 Also in subsection (g) of this section, the former reference to staff "services"
39 is deleted as implicit in the reference to "staff".

1 Defined terms: "Board" § 1-301

2 "County" § 1-101

3 "9-1-1 Trust Fund" § 1-301

4 "Secretary" § 1-301

5 1-306. RESPONSIBILITIES OF BOARD -- COORDINATION OF ENHANCEMENT OF 9-1-1
6 SYSTEMS.

7 (A) IN GENERAL.

8 THE BOARD SHALL COORDINATE THE ENHANCEMENT OF COUNTY 9-1-1
9 SYSTEMS.

10 (B) SPECIFIC RESPONSIBILITIES.

11 THE BOARD'S RESPONSIBILITIES INCLUDE:

12 (1) ESTABLISHING PLANNING GUIDELINES FOR ENHANCED 9-1-1
13 SYSTEM PLANS IN ACCORDANCE WITH THIS SUBTITLE;

14 (2) ESTABLISHING PROCEDURES TO REVIEW AND APPROVE OR
15 DISAPPROVE COUNTY PLANS AND TO EVALUATE REQUESTS FOR VARIATIONS FROM
16 THE PLANNING GUIDELINES ESTABLISHED BY THE BOARD;

17 (3) ESTABLISHING PROCEDURES FOR THE REQUEST FOR
18 REIMBURSEMENT OF THE COSTS OF ENHANCING A 9-1-1 SYSTEM BY A COUNTY OR
19 COUNTIES IN WHICH A 9-1-1 SYSTEM IS IN OPERATION, AND PROCEDURES TO
20 REVIEW AND APPROVE OR DISAPPROVE THE REQUEST;

21 (4) TRANSMITTING THE PLANNING GUIDELINES AND PROCEDURES
22 ESTABLISHED UNDER THIS SECTION, AND ANY AMENDMENTS TO THEM, TO THE
23 GOVERNING BODY OF EACH COUNTY;

24 (5) SUBMITTING TO THE SECRETARY EACH YEAR A SCHEDULE FOR
25 IMPLEMENTING THE ENHANCEMENT OF COUNTY OR MULTICOUNTY 9-1-1 SYSTEMS,
26 AND AN ESTIMATE OF FUNDING REQUIREMENTS BASED ON THE APPROVED COUNTY
27 PLANS;

28 (6) REVIEWING AND APPROVING OR DISAPPROVING REQUESTS FOR
29 REIMBURSEMENT OF THE COSTS OF ENHANCING 9-1-1 SYSTEMS, AND SUBMITTING
30 TO THE SECRETARY EACH YEAR A SCHEDULE FOR REIMBURSEMENT AND AN
31 ESTIMATE OF FUNDING REQUIREMENTS;

32 (7) REVIEWING THE ENHANCEMENT OF 9-1-1 SYSTEMS;

33 (8) PROVIDING FOR AN AUDIT OF COUNTY EXPENDITURES FOR THE
34 OPERATION AND MAINTENANCE OF 9-1-1 SYSTEMS;

35 (9) ENSURING INSPECTIONS OF PUBLIC SAFETY ANSWERING POINTS;

1 (10) REVIEWING AND APPROVING OR DISAPPROVING REQUESTS FROM
 2 COUNTIES WITH OPERATIONAL ENHANCED 9-1-1 SYSTEMS TO BE EXEMPTED FROM
 3 THE EXPENDITURE LIMITATIONS UNDER § 1-312 OF THIS SUBTITLE; AND

4 (11) AUTHORIZING EXPENDITURES FROM THE 9-1-1 TRUST FUND THAT:

5 (I) ARE FOR ENHANCEMENTS OF 9-1-1 SYSTEMS THAT:

6 1. ARE REQUIRED BY THE BOARD;

7 2. WILL BE PROVIDED TO A COUNTY BY A THIRD PARTY
 8 CONTRACTOR; AND

9 3. WILL INCUR COSTS THAT THE BOARD HAS APPROVED
 10 BEFORE THE FORMATION OF A CONTRACT BETWEEN THE COUNTY AND THE
 11 CONTRACTOR; AND

12 (II) ARE APPROVED BY THE BOARD FOR PAYMENT:

13 1. FROM MONEY COLLECTED UNDER § 1-310 OF THIS
 14 SUBTITLE; AND

15 2. DIRECTLY TO A THIRD PARTY CONTRACTOR ON BEHALF
 16 OF A COUNTY.

17 (C) PLANNING GUIDELINES.

18 THE GUIDELINES ESTABLISHED BY THE BOARD UNDER SUBSECTION (B)(1) OF
 19 THIS SECTION:

20 (1) SHALL BE BASED ON AVAILABLE TECHNOLOGY AND EQUIPMENT;
 21 AND

22 (2) MAY BE BASED ON ANY OTHER FACTOR THAT THE BOARD
 23 DETERMINES IS APPROPRIATE, INCLUDING POPULATION AND AREA SERVED BY 9-1-1
 24 SYSTEMS.

25 REVISOR'S NOTE: This section is new language derived without substantive
 26 change from former Art. 41, § 18-103(h).

27 In subsection (b)(1) of this section, the former reference to "§ 18-104" is
 28 deleted as obsolete. *See* General Revisor's Note to subtitle. Similarly, in
 29 subsection (b)(10) of this section, the former specific reference to "§
 30 18-108(d)" is deleted as obsolete.

31 In subsection (b)(2) of this section, the reference to "planning guidelines
 32 established by the Board" is substituted for the former reference to
 33 "established guidelines" for clarity.

34 Also in subsection (b)(2) of this section, the former reference to
 35 "multicounty" plans is deleted as included in the defined term "county

1 plan[s]".

2 In subsection (b)(4) of this section, the broader reference to transmitting
3 certain guidelines and procedures to the "governing body of" each county is
4 substituted for the former narrower reference to transmitting the
5 guidelines and procedures to the "county executive and the county council
6 or to the president of the board of county commissioners in" each county,
7 for brevity and to conform to the apparent legislative intent that this
8 subtitle apply to Baltimore City.

9 In subsection (b)(8) of this section, the reference to "provid[ing] for an"
10 audit "of" county expenditures is added for accuracy and consistency with
11 § 1-312(e) of this subtitle.

12 In the introductory language of subsection (b)(11)(i) of this section, the
13 reference to enhancements "of 9-1-1 systems" is added for clarity.

14 In subsection (b)(11)(ii)1 of this section, the reference to "money" is
15 substituted for the former reference to "proceeds" for accuracy and
16 consistency within this subtitle and this article.

17 In the introductory language of subsection (c) of this section, the reference
18 to the guidelines "established by the Board under subsection (b)(1) of this
19 section" is added for clarity.

20 Defined terms: "Board" § 1-301

21 "County" § 1-101

22 "County plan" § 1-301

23 "Enhanced 9-1-1 system" § 1-301

24 "9-1-1 system" § 1-301

25 "9-1-1 Trust Fund" § 1-301

26 "Public safety answering point" § 1-301

27 "Secretary" § 1-301

28 1-307. SAME -- ANNUAL REPORT.

29 (A) REQUIRED.

30 THE BOARD SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR, THE
31 SECRETARY, AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE
32 LEGISLATIVE POLICY COMMITTEE.

33 (B) CONTENTS.

34 THE REPORT SHALL PROVIDE THE FOLLOWING INFORMATION FOR EACH
35 COUNTY:

36 (1) THE TYPE OF 9-1-1 SYSTEM CURRENTLY OPERATING IN THE
37 COUNTY;

- 1 (2) THE TOTAL 9-1-1 FEE AND ADDITIONAL CHARGE CHARGED;
- 2 (3) THE FUNDING FORMULA IN EFFECT;
- 3 (4) ANY STATUTORY OR REGULATORY VIOLATION BY THE COUNTY AND
4 THE RESPONSE OF THE BOARD;
- 5 (5) ANY EFFORTS TO ESTABLISH AN ENHANCED 9-1-1 SYSTEM IN THE
6 COUNTY; AND
- 7 (6) ANY SUGGESTED CHANGES TO THIS SUBTITLE.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 41, § 18-103(j).

10 In subsection (b)(1) and (5) of this section, the phrase "in the county" is
11 added for clarity.

12 In subsection (b)(2) of this section, the reference to the "9-1-1 fee" is
13 substituted for the former reference to the "State" fee for clarity. Similarly,
14 the reference to the "additional charge" is substituted for the former
15 reference to the "county fee".

16 Defined terms: "Additional charge" § 1-301

17 "Board" § 1-301

18 "County" § 1-101

19 "Enhanced 9-1-1 system" § 1-301

20 "9-1-1 fee" § 1-301

21 "9-1-1 system" § 1-301

22 "Secretary" § 1-301

23 1-308. 9-1-1 TRUST FUND.

24 (A) ESTABLISHED.

25 THERE IS A 9-1-1 TRUST FUND.

26 (B) PURPOSES.

27 THE PURPOSES OF THE 9-1-1 TRUST FUND ARE TO:

28 (1) REIMBURSE COUNTIES FOR THE COST OF ENHANCING A 9-1-1
29 SYSTEM;

30 (2) PAY CONTRACTORS IN ACCORDANCE WITH § 1-306(B)(11) OF THIS
31 SUBTITLE; AND

32 (3) FUND THE COORDINATOR POSITION UNDER § 1-305 OF THIS
33 SUBTITLE.

34 (C) COMPOSITION.

1 THE 9-1-1 TRUST FUND CONSISTS OF:

2 (1) MONEY FROM THE 9-1-1 FEE COLLECTED AND REMITTED TO THE
3 COMPTROLLER UNDER § 1-310 OF THIS SUBTITLE;

4 (2) MONEY FROM THE ADDITIONAL CHARGE COLLECTED AND
5 REMITTED TO THE COMPTROLLER UNDER § 1-311 OF THIS SUBTITLE; AND

6 (3) INVESTMENT EARNINGS OF THE 9-1-1 TRUST FUND.

7 (D) MONEY IN 9-1-1 TRUST FUND.

8 MONEY IN THE 9-1-1 TRUST FUND SHALL BE HELD IN THE STATE TREASURY.

9 (E) ADMINISTRATION.

10 THE SECRETARY SHALL ADMINISTER THE 9-1-1 TRUST FUND, SUBJECT TO THE
11 GUIDELINES FOR FINANCIAL MANAGEMENT AND BUDGETING ESTABLISHED BY THE
12 DEPARTMENT OF BUDGET AND MANAGEMENT.

13 (F) ESTABLISHMENT OF SEPARATE ACCOUNTS.

14 THE SECRETARY SHALL DIRECT THE COMPTROLLER TO ESTABLISH SEPARATE
15 ACCOUNTS IN THE 9-1-1 TRUST FUND FOR THE PAYMENT OF ADMINISTRATIVE
16 EXPENSES AND FOR EACH COUNTY.

17 (G) INCOME FROM INVESTMENTS.

18 (1) ANY INVESTMENT EARNINGS SHALL BE CREDITED TO THE 9-1-1
19 TRUST FUND.

20 (2) THE COMPTROLLER SHALL ALLOCATE THE INVESTMENT INCOME
21 AMONG THE ACCOUNTS IN THE 9-1-1 TRUST FUND, PRORATED ON THE BASIS OF THE
22 TOTAL FEES COLLECTED IN EACH COUNTY.

23 REVISOR'S NOTE: Subsections (a), (b), and (d) through (g) of this section are
24 new language derived without substantive change from former Art. 41, §
25 18-105(a) and (e) and the second sentence of § 18-103(d).

26 Subsection (c) of this section is new language added to clarify the
27 composition of the 9-1-1 Trust Fund.

28 In subsection (b)(1) of this section, the reference to reimbursing counties
29 for "the cost of enhancing a 9-1-1 system" is substituted for the former
30 reference to reimbursing counties for "enhancements to a 911 system" for
31 accuracy and consistency within this subtitle.

32 In subsection (f) of this section, the word "direct" is substituted for the
33 former word "cause" for clarity and consistency with § 1-309(b)(3) of this
34 subtitle.

1 Defined terms: "Additional charge" § 1-301

2 "County" § 1-101

3 "9-1-1 fee" § 1-301

4 "9-1-1 system" § 1-301

5 "9-1-1 Trust Fund" § 1-301

6 "Secretary" § 1-301

7 1-309. APPROPRIATIONS AND DISBURSEMENTS FROM 9-1-1 TRUST FUND.

8 (A) ANNUAL APPROPRIATION.

9 ON RECOMMENDATION OF THE BOARD, EACH YEAR THE SECRETARY SHALL
10 REQUEST AN APPROPRIATION FROM THE 9-1-1 TRUST FUND IN AN AMOUNT
11 SUFFICIENT TO:

12 (1) CARRY OUT THE PURPOSES OF THIS SUBTITLE;

13 (2) PAY THE ADMINISTRATIVE COSTS CHARGEABLE TO THE 9-1-1 TRUST
14 FUND; AND

15 (3) REIMBURSE COUNTIES FOR THE COST OF ENHANCING A 9-1-1
16 SYSTEM.

17 (B) DISBURSEMENTS -- IN GENERAL.

18 (1) SUBJECT TO THE LIMITATIONS UNDER SUBSECTION (E) OF THIS
19 SECTION, THE COMPTROLLER SHALL DISBURSE THE MONEY IN THE 9-1-1 TRUST
20 FUND AS PROVIDED IN THIS SUBSECTION.

21 (2) EACH JULY 1, THE COMPTROLLER SHALL ALLOCATE SUFFICIENT
22 MONEY FROM THE 9-1-1 FEE TO PAY THE COSTS OF ADMINISTERING THE 9-1-1
23 TRUST FUND.

24 (3) AS DIRECTED BY THE SECRETARY AND IN ACCORDANCE WITH THE
25 STATE BUDGET, THE COMPTROLLER, FROM THE APPROPRIATE ACCOUNT, SHALL:

26 (I) REIMBURSE COUNTIES FOR THE COST OF ENHANCING A 9-1-1
27 SYSTEM; AND

28 (II) PAY CONTRACTORS IN ACCORDANCE WITH § 1-306(B)(11) OF
29 THIS SUBTITLE.

30 (4) (I) THE COMPTROLLER SHALL PAY TO EACH COUNTY FROM ITS
31 ACCOUNT THE MONEY REQUESTED BY THE COUNTY TO PAY THE MAINTENANCE AND
32 OPERATION COSTS OF THE COUNTY'S 9-1-1 SYSTEM IN ACCORDANCE WITH THE
33 STATE BUDGET.

34 (II) THE COMPTROLLER SHALL PAY THE MONEY FOR
35 MAINTENANCE AND OPERATION COSTS ON SEPTEMBER 30, DECEMBER 31, MARCH 31,
36 AND JUNE 30 OF EACH YEAR.

1 (C) SAME -- USE OF MONEY ACCRUING TO 9-1-1 TRUST FUND.

2 (1) MONEY ACCRUING TO THE 9-1-1 TRUST FUND MAY BE USED AS
3 PROVIDED IN THIS SUBSECTION.

4 (2) MONEY COLLECTED FROM THE 9-1-1 FEE MAY BE USED TO:

5 (I) REIMBURSE COUNTIES FOR THE COST OF ENHANCING A 9-1-1
6 SYSTEM; AND

7 (II) PAY CONTRACTORS IN ACCORDANCE WITH § 1-306(B)(11) OF
8 THIS SUBTITLE.

9 (3) MONEY COLLECTED FROM THE ADDITIONAL CHARGE MAY BE USED
10 BY THE COUNTIES FOR THE MAINTENANCE AND OPERATION COSTS OF THE 9-1-1
11 SYSTEM.

12 (D) SAME -- REIMBURSEMENTS FOR 9-1-1 SYSTEM ENHANCEMENTS.

13 (1) REIMBURSEMENT MAY BE MADE ONLY TO THE EXTENT THAT
14 COUNTY MONEY WAS USED TO ENHANCE THE 9-1-1 SYSTEM.

15 (2) REIMBURSEMENT FOR THE ENHANCEMENT OF 9-1-1 SYSTEMS
16 SHALL INCLUDE THE INSTALLATION OF EQUIPMENT FOR AUTOMATIC NUMBER
17 IDENTIFICATION, AUTOMATIC LOCATION IDENTIFICATION, AND OTHER
18 TECHNOLOGICAL ADVANCEMENTS THAT THE BOARD REQUIRES.

19 (3) REIMBURSEMENT FROM MONEY COLLECTED FROM THE 9-1-1 FEE
20 MAY BE USED ONLY FOR 9-1-1 SYSTEM ENHANCEMENTS APPROVED BY THE BOARD.

21 (E) WITHHOLDING MONEY OF COUNTY.

22 (1) THE BOARD MAY DIRECT THE COMPTROLLER TO WITHHOLD FROM A
23 COUNTY MONEY FOR 9-1-1 SYSTEM EXPENDITURES IF THE COUNTY VIOLATES THIS
24 SUBTITLE OR A REGULATION OF THE BOARD.

25 (2) (I) THE BOARD SHALL STATE PUBLICLY IN WRITING ITS REASON
26 FOR WITHHOLDING MONEY FROM A COUNTY AND SHALL RECORD ITS REASON IN
27 THE MINUTES OF THE BOARD.

28 (II) ON REACHING ITS DECISION TO WITHHOLD MONEY, THE
29 BOARD SHALL NOTIFY THE COUNTY.

30 (III) THE COUNTY HAS 30 DAYS AFTER THE DATE OF NOTIFICATION
31 TO RESPOND IN WRITING TO THE BOARD.

32 (3) (I) ON NOTIFICATION BY THE BOARD, THE COMPTROLLER SHALL
33 HOLD MONEY FOR THE COUNTY IN THE COUNTY'S ACCOUNT IN THE 9-1-1 TRUST
34 FUND.

1 (II) MONEY HELD BY THE COMPTROLLER UNDER SUBPARAGRAPH
2 (I) OF THIS PARAGRAPH DOES NOT ACCRUE INTEREST FOR THE COUNTY.

3 (III) INTEREST INCOME EARNED ON MONEY HELD BY THE
4 COMPTROLLER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH ACCRUES TO THE
5 9-1-1 TRUST FUND.

6 (4) COUNTY MONEY WITHHELD BY THE COMPTROLLER SHALL BE
7 WITHHELD UNTIL THE BOARD DIRECTS THE COMPTROLLER TO RELEASE THE
8 MONEY.

9 (F) AUDITS.

10 (1) THE LEGISLATIVE AUDITOR SHALL CONDUCT FISCAL/COMPLIANCE
11 AUDITS OF THE 9-1-1 TRUST FUND AND OF THE APPROPRIATIONS AND
12 DISBURSEMENTS MADE FOR PURPOSES OF THIS SUBTITLE.

13 (2) THE COST OF THE FISCAL PORTION OF THE AUDITS SHALL BE PAID
14 FROM THE 9-1-1 TRUST FUND AS AN ADMINISTRATIVE COST.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 41, §§ 18-103(i), 18-105(f) and (g), and 18-107(a),
17 (b), and (f).

18 In subsection (a)(2) of this section, the reference to "pay[ing]"
19 administrative costs is added for clarity.

20 In subsection (a)(3) of this section, the former reference to reimbursing
21 counties "which are operating" a 9-1-1 system for enhancements to that
22 system is deleted as implicit.

23 In subsection (b)(2) of this section, the former phrase "as provided by law"
24 is deleted as implicit.

25 In subsection (b)(4)(i) of this section, the former phrase "[i]f a 911 system is
26 in operation in a county" is deleted as obsolete.

27 In subsection (c)(1) of this section, the former reference to funds accruing
28 "after January 1, 1991" is deleted as obsolete. Similarly, in subsection
29 (c)(2)(i) of this section, the former reference to enhancements "occurring
30 after January 1, 1991" is deleted.

31 In subsection (d)(2) of this section, the specific reference to "automatic
32 number identification, automatic location identification, and other
33 technological advancements that the Board requires" is substituted for the
34 former phrase "as described in [former] § 18-101(f)(6) of this subtitle" for
35 clarity.

36 In subsection (d)(3) of this section, the former reference to "the 911 fee
37 established under § 18-105(b)" is deleted as unnecessary in light of the use

1 of the defined term "9-1-1 fee".

2 In subsection (e)(1) of this section, the word "direct" is substituted for the
3 former word "instruct" for clarity and consistency with subsection (e)(4) of
4 this section.

5 In subsection (e)(2)(i) of this section, the former reference to the minutes
6 "book" is deleted as surplusage.

7 In subsection (f)(1) of this section, the reference to "fiscal/compliance
8 audits" is substituted for the former reference to "postaudits of a fiscal and
9 compliance nature" for accuracy and consistency with the terminology used
10 in § 2-1220 of the State Government Article. Correspondingly, in
11 subsection (f)(2) of this section, the reference to "audits" is substituted for
12 the former reference to a "postaudit examination".

13 Former Art. 41, § 18-107(c), which provided that the amount of
14 maintenance and operating costs is subject to the limitations of former §§
15 18-107 and 18-108, is deleted as obsolete and superfluous.

16 Former Art. 41, § 18-107(d) and (e), which specified the manner in which
17 funds in the 911 Trust Fund as of July 1, 1983, were to be allocated, and
18 established limitations on disbursements from the 911 fee collected from
19 July 1, 1980, through June 30, 1983, are not retained in the Code because
20 they apparently are obsolete. However, they are transferred to the Session
21 Laws to avoid any inadvertent substantive effect that their repeal might
22 have.

23 The Public Safety Article Review Committee notes, for consideration by the
24 General Assembly, that the reference in subsection (e)(1) of this section to
25 the authority of the Board to direct the Comptroller to withhold money
26 from a county for a violation of a "regulation of the Board" is misleading.
27 The Board does not have explicit authority to adopt regulations.

28 Defined terms: "Additional charge" § 1-301

29 "Board" § 1-301

30 "County" § 1-101

31 "9-1-1 fee" § 1-301

32 "9-1-1 system" § 1-301

33 "9-1-1 Trust Fund" § 1-301

34 "Secretary" § 1-301

35 1-310. 9-1-1 FEE.

36 (A) IN GENERAL.

37 EACH SUBSCRIBER TO SWITCHED LOCAL EXCHANGE ACCESS SERVICE,
38 WIRELESS TELEPHONE SERVICE, OR OTHER 9-1-1-ACCESSIBLE SERVICE SHALL PAY
39 A 9-1-1 FEE.

1 (B) AMOUNT; WHEN PAYABLE.

2 THE 9-1-1 FEE IS 10 CENTS PER MONTH, PAYABLE WHEN THE BILL FOR
3 TELEPHONE SERVICE IS DUE.

4 (C) COLLECTION -- BY TELEPHONE COMPANIES.

5 (1) THE PUBLIC SERVICE COMMISSION SHALL DIRECT EACH
6 TELEPHONE COMPANY TO ADD THE 9-1-1 FEE TO ALL CURRENT BILLS RENDERED
7 FOR SWITCHED LOCAL EXCHANGE ACCESS SERVICE IN THE STATE.

8 (2) EACH TELEPHONE COMPANY:

9 (I) SHALL ACT AS A COLLECTION AGENT FOR THE 9-1-1 TRUST
10 FUND WITH RESPECT TO THE 9-1-1 FEES;

11 (II) SHALL REMIT ALL MONEY COLLECTED TO THE COMPTROLLER
12 ON A MONTHLY BASIS; AND

13 (III) IS ENTITLED TO CREDIT, AGAINST THE MONEY FROM THE 9-1-1
14 FEES TO BE REMITTED TO THE COMPTROLLER, AN AMOUNT EQUAL TO 0.75% OF THE
15 9-1-1 FEES TO COVER THE EXPENSES OF BILLING, COLLECTING, AND REMITTING
16 THE 9-1-1 FEES AND ANY ADDITIONAL CHARGES.

17 (3) THE COMPTROLLER SHALL DEPOSIT THE MONEY REMITTED IN THE
18 9-1-1 TRUST FUND.

19 (D) SAME -- BY 9-1-1 SERVICE CARRIERS.

20 (1) EACH 9-1-1 SERVICE CARRIER SHALL ADD THE 9-1-1 FEE TO ALL
21 CURRENT BILLS RENDERED FOR WIRELESS TELEPHONE SERVICE OR OTHER
22 9-1-1-ACCESSIBLE SERVICE IN THE STATE.

23 (2) EACH 9-1-1 SERVICE CARRIER:

24 (I) SHALL ACT AS A COLLECTION AGENT FOR THE 9-1-1 TRUST
25 FUND WITH RESPECT TO THE 9-1-1 FEES;

26 (II) SHALL REMIT ALL MONEY COLLECTED TO THE COMPTROLLER
27 ON A MONTHLY BASIS; AND

28 (III) IS ENTITLED TO CREDIT, AGAINST THE MONEY FROM THE 9-1-1
29 FEES TO BE REMITTED TO THE COMPTROLLER, AN AMOUNT EQUAL TO 0.75% OF THE
30 9-1-1 FEES TO COVER THE EXPENSES OF BILLING, COLLECTING, AND REMITTING
31 THE 9-1-1 FEES AND ANY ADDITIONAL CHARGES.

32 (3) THE COMPTROLLER SHALL DEPOSIT THE MONEY REMITTED IN THE
33 9-1-1 TRUST FUND.

34 (E) APPLICABILITY TO INTERMEDIATE SERVICE LINES.

1 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE 9-1-1 FEE
 2 DOES NOT APPLY TO AN INTERMEDIATE SERVICE LINE USED EXCLUSIVELY TO
 3 CONNECT A WIRELESS TELEPHONE SERVICE OR OTHER 9-1-1-ACCESSIBLE SERVICE,
 4 OTHER THAN A SWITCHED LOCAL ACCESS SERVICE, TO ANOTHER TELEPHONE
 5 SYSTEM OR SWITCHING DEVICE.

6 (F) LIABILITY OF CELLULAR TELEPHONE OR PERSONAL COMMUNICATION
 7 COMPANIES.

8 A CELLULAR TELEPHONE COMPANY OR PERSONAL COMMUNICATION COMPANY
 9 THAT PAYS OR COLLECTS 9-1-1 FEES UNDER THIS SECTION HAS THE SAME
 10 IMMUNITY FROM LIABILITY FOR TRANSMISSION FAILURES AS THAT APPROVED BY
 11 THE PUBLIC SERVICE COMMISSION FOR LOCAL EXCHANGE TELEPHONE COMPANIES
 12 THAT ARE SUBJECT TO REGULATION BY THE COMMISSION UNDER THE PUBLIC
 13 UTILITY COMPANIES ARTICLE.

14 REVISOR'S NOTE: This section is new language derived without substantive
 15 change from former Art. 41, §§ 18-105(b) and (d) and 18-106(c).

16 Subsection (a) of this section is revised in the active voice to clarify that it
 17 is a duty of certain subscribers to pay a 9-1-1 fee.

18 In subsection (a) of this section, the former introductory language, "[f]or
 19 purposes of this subtitle", is deleted as surplusage.

20 In subsections (c)(2)(ii) and (iii) and (d)(2)(ii) and (iii) of this section, the
 21 references to "money" are substituted for the former references to
 22 "proceeds" for accuracy and consistency within this subtitle.
 23 Correspondingly, in subsections (c)(3) and (d)(3) of this section, the
 24 references to "money" are substituted for the former references to "funds".

25 In subsections (c)(2)(ii) and (d)(2)(ii) of this section, the references to all
 26 money "collected" are added for clarity.

27 In subsections (c)(2)(iii) and (d)(2)(iii) of this section, the references to the
 28 money from the 9-1-1 fee to be remitted "to the Comptroller" are added for
 29 clarity.

30 In subsection (e) of this section, the former reference to "the 911 fee
 31 authorized under this subtitle" is deleted as unnecessary in light of the use
 32 of the defined term "9-1-1 fee".

33 Defined terms: "Additional charge" § 1-301

34 "9-1-1-accessible service" § 1-301

35 "9-1-1 fee" § 1-301

36 "9-1-1 service carrier" § 1-301

37 "9-1-1 Trust Fund" § 1-301

38 "Wireless telephone service" § 1-301

1 1-311. ADDITIONAL CHARGE.

2 (A) AUTHORIZED.

3 IN ADDITION TO THE 9-1-1 FEE, THE GOVERNING BODY OF EACH COUNTY, BY
4 ORDINANCE OR RESOLUTION ENACTED OR ADOPTED AFTER A PUBLIC HEARING,
5 MAY IMPOSE AN ADDITIONAL CHARGE TO BE ADDED TO ALL CURRENT BILLS
6 RENDERED FOR SWITCHED LOCAL EXCHANGE ACCESS SERVICE, WIRELESS
7 TELEPHONE SERVICE, OR OTHER 9-1-1-ACCESSIBLE SERVICE IN THE COUNTY.

8 (B) LIMITATION ON AMOUNT.

9 (1) THE ADDITIONAL CHARGE IMPOSED BY A COUNTY MAY NOT EXCEED
10 50 CENTS PER MONTH PER BILL.

11 (2) THE AMOUNT OF THE ADDITIONAL CHARGES MAY NOT EXCEED A
12 LEVEL NECESSARY TO COVER THE TOTAL ELIGIBLE MAINTENANCE AND OPERATION
13 COSTS OF THE COUNTY.

14 (C) DURATION.

15 THE ADDITIONAL CHARGE CONTINUES IN EFFECT UNTIL REPEALED OR
16 MODIFIED BY A SUBSEQUENT COUNTY ORDINANCE OR RESOLUTION.

17 (D) CERTIFICATION TO PUBLIC SERVICE COMMISSION.

18 AFTER IMPOSING, REPEALING, OR MODIFYING AN ADDITIONAL CHARGE, THE
19 COUNTY SHALL CERTIFY THE AMOUNT OF THE ADDITIONAL CHARGE TO THE PUBLIC
20 SERVICE COMMISSION.

21 (E) ADDITION TO BILLS -- BY TELEPHONE COMPANIES.

22 THE PUBLIC SERVICE COMMISSION SHALL DIRECT EACH TELEPHONE
23 COMPANY THAT PROVIDES SERVICE IN A COUNTY THAT IMPOSED AN ADDITIONAL
24 CHARGE TO ADD, WITHIN 60 DAYS, THE FULL AMOUNT OF THE ADDITIONAL CHARGE
25 TO ALL CURRENT BILLS RENDERED FOR SWITCHED LOCAL EXCHANGE ACCESS
26 SERVICE IN THE COUNTY.

27 (F) SAME -- BY 9-1-1 SERVICE CARRIERS.

28 WITHIN 60 DAYS AFTER A COUNTY ENACTS OR ADOPTS AN ORDINANCE OR
29 RESOLUTION THAT IMPOSES, REPEALS, OR MODIFIES AN ADDITIONAL CHARGE,
30 EACH 9-1-1 SERVICE CARRIER THAT PROVIDES SERVICE IN THE COUNTY SHALL ADD
31 THE FULL AMOUNT OF THE ADDITIONAL CHARGE TO ALL CURRENT BILLS
32 RENDERED FOR WIRELESS TELEPHONE SERVICE OR OTHER 9-1-1-ACCESSIBLE
33 SERVICE IN THE COUNTY.

34 (G) COLLECTION.

35 (1) EACH TELEPHONE COMPANY AND EACH 9-1-1 SERVICE CARRIER
36 SHALL:

1 (I) ACT AS A COLLECTION AGENT FOR THE 9-1-1 TRUST FUND
2 WITH RESPECT TO THE ADDITIONAL CHARGE IMPOSED BY EACH COUNTY;

3 (II) COLLECT THE MONEY FROM THE ADDITIONAL CHARGE ON A
4 COUNTY BASIS; AND

5 (III) REMIT ALL MONEY COLLECTED TO THE COMPTROLLER ON A
6 MONTHLY BASIS.

7 (2) THE COMPTROLLER SHALL DEPOSIT THE MONEY REMITTED IN THE
8 9-1-1 TRUST FUND ACCOUNT MAINTAINED FOR THE COUNTY THAT IMPOSED THE
9 ADDITIONAL CHARGE.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 41, § 18-105(c).

12 In subsection (a) of this section, the reference to an ordinance or resolution
13 "enacted or adopted" after a public hearing is added, and the reference to
14 "impos[ing]" an additional charge is substituted, for the former reference to
15 "enact[ing] or adopt[ing]" an additional charge, for accuracy.

16 Also in subsection (a) of this section, the reference to an additional charge
17 to be "added" to bills is substituted for the former reference to an
18 additional charge to be "applied" to bills for consistency with subsections
19 (e) and (f) of this section.

20 Also in subsection (a) of this section, the former reference to "the 911 fee
21 imposed by subsection (b) of this section" is deleted as unnecessary in light
22 of the use of the defined term "9-1-1 fee".

23 In subsection (b)(1) of this section, the reference to the additional charge
24 "imposed by a county" is added for clarity.

25 Also in subsection (b)(1) of this section, the phrase "per bill" is added to
26 clarify that the additional charge may be added to each bill.

27 In subsection (c) of this section, the reference to a "county" ordinance or
28 resolution is added for clarity and consistency with subsection (a) of this
29 section.

30 In subsection (d) of this section, the reference to "imposing" an additional
31 charge is substituted for the former reference to "adopting" an additional
32 charge for accuracy.

33 In subsection (f) of this section, the reference to a county "adopt[ing]" an
34 ordinance or resolution is added for consistency with subsection (a) of this
35 section.

36 Also in subsection (f) of this section, the reference to an ordinance or
37 resolution that "imposes" an additional charge is substituted for the former

1 reference to an ordinance or resolution that "adopts" an additional charge
2 for accuracy.

3 In subsection (g)(1)(iii) of this section, the requirement that "all" money
4 "collected" be remitted "on a" monthly "basis" is added for clarity and
5 consistency with § 1-310(c)(2)(ii) and (d)(2)(ii) of this subtitle.

6 Subsection (g)(2) of this section is revised in the active voice to clarify that
7 it is the duty of the Comptroller to deposit the money collected under this
8 section in the appropriate 9-1-1 Trust Fund account.

9 The Public Safety Article Review Committee notes, for consideration by the
10 General Assembly, that there is no procedure specified in the law for
11 notifying 9-1-1 service carriers that an additional charge has been
12 imposed by a county under this section.

13 Defined terms: "Additional charge" § 1-301

14 "County" § 1-101

15 "9-1-1-accessible service" § 1-301

16 "9-1-1 fee" § 1-301

17 "9-1-1 service carrier" § 1-301

18 "9-1-1 Trust Fund" § 1-301

19 "Wireless telephone service" § 1-301

20 1-312. EXPENDITURES BY COUNTIES FOR 9-1-1 SYSTEMS.

21 (A) AUTHORIZED.

22 DURING EACH COUNTY'S FISCAL YEAR, THE COUNTY MAY SPEND THE
23 AMOUNTS DISTRIBUTED TO IT FROM 9-1-1 FEE COLLECTIONS FOR THE
24 INSTALLATION, ENHANCEMENT, MAINTENANCE, AND OPERATION OF A COUNTY OR
25 MULTICOUNTY 9-1-1 SYSTEM.

26 (B) ITEMS INCLUDED IN MAINTENANCE AND OPERATION COSTS.

27 MAINTENANCE AND OPERATION COSTS MAY INCLUDE TELEPHONE COMPANY
28 CHARGES, EQUIPMENT COSTS, EQUIPMENT LEASE CHARGES, REPAIRS, UTILITIES,
29 PERSONNEL COSTS, AND APPROPRIATE CARRYOVER COSTS FROM PREVIOUS YEARS.

30 (C) AUDIT OF COUNTY EXPENDITURES.

31 THE BOARD SHALL PROVIDE FOR AN AUDIT OF EACH COUNTY'S EXPENDITURES
32 FOR THE MAINTENANCE AND OPERATION OF THE COUNTY'S 9-1-1 SYSTEM.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 41, § 18-108.

35 In subsection (c) of this section, the reference to "the county's" 9-1-1
36 system is added for clarity.

1 Defined terms: "Board" § 1-301

2 "County" § 1-101

3 "9-1-1 fee" § 1-301

4 "9-1-1 system" § 1-301

5 GENERAL REVISOR'S NOTE TO SUBTITLE:

6 Throughout this subtitle, references to the three digits "9-1-1" are substituted
7 for the former references to "911" for clarity at the request of the Emergency Number
8 Systems Board. Correspondingly, references to the "9-1-1" system, "9-1-1" accessible
9 service, the "9-1-1" fee, "9-1-1" service carriers, and the "9-1-1" Trust Fund are used
10 throughout this subtitle. The Public Safety Article Review Committee notes these
11 substitutions for consideration by the General Assembly.

12 Former Art. 41, § 18-104, which required submission to the Board of a plan for
13 the enhancement of the 911 system for a county or a multicounty area, is transferred
14 to the Session Laws. The dates for submitting the plans have passed and the
15 provision is obsolete. The provision is decodified and retained in the law, however, for
16 historical purposes.

17 Former Art. 41, § 18-108(d) and (e), which provided for counties without
18 operational enhanced 911 systems, are transferred to the Session Laws. These
19 provisions are obsolete because all counties have operational enhanced 9-1-1
20 systems. The provisions are decodified and retained in the law, however, for historical
21 purposes.

22 TITLE 2. DEPARTMENT OF STATE POLICE.

23 SUBTITLE 1. DEFINITIONS.

24 2-101. DEFINITIONS.

25 (A) IN GENERAL.

26 IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

27 REVISOR'S NOTE: This subsection is new language derived without
28 substantive change from the introductory language of former Art. 88B, § 2.

29 The former phrase "unless the context manifestly indicates a different
30 meaning" is deleted as an unnecessary statement of a general rule of
31 statutory construction.

32 (B) CIVILIAN CLASSIFICATION.

33 "CIVILIAN CLASSIFICATION" MEANS THE POSITION HELD BY A CIVILIAN
34 EMPLOYEE.

35 REVISOR'S NOTE: This subsection formerly was Art. 88B, § 2(1).

1 %No changes are made.

2 Defined term: "Civilian employee" § 2-101

3 (C) CIVILIAN EMPLOYEE.

4 "CIVILIAN EMPLOYEE" MEANS AN EMPLOYEE OF THE DEPARTMENT OTHER
5 THAN A POLICE EMPLOYEE.

6 REVISOR'S NOTE: This subsection is new language derived without
7 substantive change from the first and third sentences of former Art. 88B, §
8 2(4).

9 Defined terms: "Department" § 2-101

10 "Police employee" § 2-101

11 (D) COMMISSIONED RANK.

12 (1) "COMMISSIONED RANK" MEANS THE RANKS OF LIEUTENANT,
13 CAPTAIN, MAJOR, AND LIEUTENANT COLONEL.

14 (2) "COMMISSIONED RANK" DOES NOT INCLUDE THE SECRETARY.

15 REVISOR'S NOTE: This subsection is new language derived without
16 substantive change from the first and third sentences of former Art. 88B, §
17 2(2).

18 In paragraph (1) of this subsection, the general reference to the rank of
19 "Lieutenant" is substituted for the former specific reference to the ranks of
20 "Second Lieutenant" and "First Lieutenant". According to the consultant
21 from the Department of State Police, the rank of Second Lieutenant is
22 obsolete.

23 Defined term: "Secretary" § 2-101

24 (E) DEPARTMENT.

25 "DEPARTMENT" MEANS THE DEPARTMENT OF STATE POLICE.

26 REVISOR'S NOTE: This subsection formerly was Art. 88B, § 2(3).

27 No changes are made.

28 (F) GRADE.

29 "GRADE" MEANS THE STATUS OF POLICE EMPLOYEES THAT HAVE THE SAME
30 PRIMARY AREAS OF DUTY AND RESPONSIBILITY WITHIN A RANK.

31 REVISOR'S NOTE: This subsection formerly was the second sentence of Art.
32 88B, § 2(7).

1 %The only changes are in style.

2 Defined terms: "Police employee" § 2-101

3 "Rank" § 2-101

4 (G) LAW ENFORCEMENT AGENCY.

5 (1) "LAW ENFORCEMENT AGENCY" MEANS A LAW ENFORCEMENT
6 AGENCY OF A DEPARTMENT, COUNTY, OR MUNICIPAL CORPORATION OF THE STATE.

7 (2) "LAW ENFORCEMENT AGENCY" INCLUDES:

8 (I) SHERIFFS; AND

9 (II) SIMILAR AGENCIES OF OTHER STATES AND THE UNITED
10 STATES.

11 REVISOR'S NOTE: This subsection is new language derived without
12 substantive change from former Art. 88B, § 2(5).

13 In paragraph (1) of this subsection, the term "municipal corporation" is
14 substituted for the former term "municipality" to conform to Md.
15 Constitution, Art. XI-E.

16 In paragraph (2)(ii) of this subsection, the former phrase "unless otherwise
17 limited" is deleted as a general rule of statutory construction.

18 Defined terms: "County" § 1-101

19 "State" § 1-101

20 (H) NONCOMMISSIONED RANK.

21 (1) "NONCOMMISSIONED RANK" MEANS A RANK OTHER THAN A
22 COMMISSIONED RANK.

23 (2) "NONCOMMISSIONED RANK" DOES NOT INCLUDE THE SECRETARY.

24 REVISOR'S NOTE: This subsection is new language derived without
25 substantive change from the second and third sentences of former Art.
26 88B, § 2(2).

27 In paragraph (1) of this subsection, the reference to "a rank other than a
28 commissioned rank" is substituted for the former reference to "any other
29 rank" for specificity and clarity.

30 Defined terms: "Commissioned rank" § 2-101

31 "Rank" § 2-101

32 "Secretary" § 2-101

33 (I) POLICE EMPLOYEE.

1 "POLICE EMPLOYEE" MEANS AN EMPLOYEE OF THE DEPARTMENT TO WHOM
2 THE SECRETARY ASSIGNS THE POWERS CONTAINED IN § 2-412 OF THIS TITLE.

3 REVISOR'S NOTE: This subsection is new language derived without
4 substantive change from the first and second sentences of former Art. 88B,
5 § 2(4).

6 Defined terms: "Department" § 2-101

7 "Secretary" § 2-101

8 (J) RANK.

9 "RANK" MEANS THE STATUS, ESTABLISHED BY RULE, OF POLICE EMPLOYEES
10 THAT HAVE THE SAME RELATIVE POSITION IN THE CHAIN OF COMMAND.

11 REVISOR'S NOTE: This subsection is new language derived without
12 substantive change from the first sentence of former Art. 88B, § 2(7).

13 Defined terms: "Police employee" § 2-101

14 "Rule" § 2-101

15 (K) RULE.

16 (1) "RULE" MEANS A RULE, ORDER, OR OTHER DIRECTIVE ADOPTED BY
17 THE SECRETARY UNDER THIS ARTICLE.

18 (2) "RULE" DOES NOT INCLUDE A REGULATION WITHIN THE MEANING
19 OF TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE.

20 REVISOR'S NOTE: This subsection is new language derived without
21 substantive change from former Art. 88B, § 2(8).

22 In paragraph (1) of this subsection, the former reference to a "regulation" is
23 deleted as unnecessary and confusing in light of paragraph (2) of this
24 subsection.

25 In paragraph (2) of this subsection, the reference to a "regulation" is
26 substituted for the former reference to a "rule" for clarity. The Public
27 Safety Article Review Committee notes this substitution for consideration
28 by the General Assembly. The former reference to a "rule" was misleading
29 because Title 10, Subtitle 1 of the State Government Article generally
30 covers regulations, not rules. Under SG § 10-101(g)(2), "regulation" does
31 not include a statement that concerns only the internal management of a
32 unit and does not directly affect the rights of the public or the procedures
33 available to the public. "Rule" as defined in this subsection deals with the
34 internal management of the Department of State Police and thus is not a
35 "regulation" for purposes of the State Government Article.

36 The Public Safety Article Review Committee also notes, for consideration
37 by the General Assembly, that the former reference to a rule, order, or

1 other directive adopted by the Secretary "pursuant to this article" referred
2 to the power of the Secretary under former Article 88B. Under the revision,
3 the reference "under this article" encompasses the powers of the Secretary
4 under the Public Safety Article. Because the powers of the Secretary were
5 contained in former Article 88B, which is revised in this article, the
6 reference "under this article" does not result in a substantive change.

7 Defined term: "Secretary" § 2-101

8 (L) SECRETARY.

9 "SECRETARY" MEANS THE SECRETARY OF STATE POLICE.

10 REVISOR'S NOTE: This subsection formerly was Art. 88B, § 2(10).

11 The only change is in style.

12 SUBTITLE 2. ORGANIZATION AND ADMINISTRATION OF DEPARTMENT.

13 2-201. DEPARTMENT ESTABLISHED.

14 THERE IS A DEPARTMENT OF STATE POLICE, ESTABLISHED AS A PRINCIPAL
15 DEPARTMENT OF STATE GOVERNMENT.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 88B, § 1(a), as it related to establishing the
18 Department.

19 It is set forth as a separate section for emphasis.

20 Former Art. 88B, § 1(a), as it related to the Department having powers and
21 duties and being administered in accordance with former Article 88B, is
22 deleted as unnecessary. The various provisions of former Article 88B
23 relating to the powers, duties, and administration of the Department - all
24 of which are revised in this article - apply whether or not this section so
25 states.

26 *See generally* SG § 8-201, which lists the principal departments of State
27 government.

28 2-202. SECRETARY.

29 (A) APPOINTMENT.

30 THE GOVERNOR SHALL APPOINT THE SECRETARY OF STATE POLICE WITH THE
31 ADVICE AND CONSENT OF THE SENATE.

32 (B) QUALIFICATIONS.

33 (1) THE APPOINTEE SHALL BE A CITIZEN OF THE UNITED STATES.

1 (2) THE APPOINTEE SHALL BE QUALIFIED ON THE BASIS OF TRAINING,
2 EXPERIENCE, AND ABILITY TO DISCHARGE THE DUTIES OF THE SECRETARY.

3 (C) TERM.

4 THE SECRETARY SERVES AT THE PLEASURE OF THE GOVERNOR.

5 (D) SALARY.

6 THE SECRETARY IS ENTITLED TO THE SALARY PROVIDED IN THE STATE
7 BUDGET.

8 (E) DUTIES.

9 (1) THE SECRETARY SHALL SUPERVISE AND DIRECT THE AFFAIRS AND
10 OPERATIONS OF THE DEPARTMENT.

11 (2) THE SECRETARY IS RESPONSIBLE FOR CARRYING OUT THE
12 GOVERNOR'S POLICIES WITH RESPECT TO THOSE MATTERS SPECIFIED IN TITLES 2, 4,
13 5, 11, AND 14 OF THIS ARTICLE.

14 (3) THE SECRETARY SHALL REPORT TO THE GOVERNOR.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 88B, § 14.

17 In subsection (e)(2) of this section, the reference to "Titles 2, 4, 5, 11, and 14
18 of this article" is substituted for the former obsolete reference to "this
19 article [Article 88B] and Article 16A of the Code". Former Article 88B and
20 former Article 16A are revised in Titles 2, 4, 5, 11, and 14 of this article.

21 Defined terms: "Department" § 2-101

22 "Secretary" § 2-101

23 2-203. DEPUTY SECRETARY.

24 (A) DESIGNATION.

25 WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY MAY DESIGNATE
26 WITHOUT EXAMINATION ONE POLICE EMPLOYEE HOLDING THE HIGHEST
27 COMMISSIONED RANK TO BE DEPUTY SECRETARY.

28 (B) TERM.

29 THE DEPUTY SECRETARY SERVES AT THE PLEASURE OF THE SECRETARY.

30 (C) SALARY.

31 THE DEPUTY SECRETARY:

32 (1) IS ENTITLED TO THE SALARY PROVIDED IN THE STATE BUDGET; BUT

1 (2) MAY NOT BE PAID IN ACCORDANCE WITH § 2-405 OF THIS TITLE.

2 (D) AUTHORITY, RESPONSIBILITY, AND DUTIES.

3 (1) THE DEPUTY SECRETARY HAS THE AUTHORITY, RESPONSIBILITY,
4 AND DUTIES ASSIGNED BY THE SECRETARY.

5 (2) WHENEVER THE SECRETARY IS ABSENT FROM THE STATE OR
6 INCAPACITATED, THE DEPUTY SECRETARY HAS, UNTIL THE SECRETARY RETURNS
7 OR IS NO LONGER INCAPACITATED, ALL OF THE POWERS AND DUTIES CONFERRED
8 BY LAW ON THE SECRETARY.

9 (E) EFFECT OF TERMINATION.

10 AFTER THE SECRETARY TERMINATES A DESIGNATION AS DEPUTY SECRETARY,
11 THE INDIVIDUAL:

12 (1) RETURNS TO THE RANK HELD BEFORE DESIGNATION AS DEPUTY
13 SECRETARY; AND

14 (2) SHALL THEN BE PAID IN ACCORDANCE WITH § 2-405 OF THIS TITLE.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 88B, § 16.

17 In subsection (b) of this section, the former phrase "notwithstanding any
18 other provision of this article" is deleted as unnecessary.

19 Also in subsection (b) of this section, the former reference to the deputy
20 secretary being "designated in accordance with this section" is deleted as
21 surplusage because no other section authorizes a deputy secretary to be
22 designated.

23 In subsection (d)(2) of this section, the reference to the Secretary being
24 "incapacitated" is substituted for the former reference to the Secretary
25 having an "incapacitating disability" for brevity. Similarly, the phrase
26 "until the Secretary ... is no longer incapacitated" is substituted for the
27 former phrase "until the disability is removed" for consistency.

28 Defined terms: "Department" § 2-101

29 "Police employee" § 2-101

30 "Secretary" § 2-101

31 2-204. GENERAL POWERS OF SECRETARY.

32 (A) POLICE POWERS.

33 THE SECRETARY AND DEPUTY SECRETARY HAVE THROUGHOUT THE STATE
34 THE SAME POWERS, PRIVILEGES, IMMUNITIES, AND DEFENSES AS SHERIFFS,
35 CONSTABLES, POLICE OFFICERS, AND OTHER PEACE OFFICERS POSSESSED AT

1 COMMON LAW AND MAY NOW OR IN THE FUTURE EXERCISE WITHIN THEIR
2 RESPECTIVE JURISDICTIONS.

3 (B) MANAGEMENT OF DEPARTMENT.

4 IN ADDITION TO ANY POWERS SET FORTH ELSEWHERE, THE SECRETARY MAY:

5 (1) ESTABLISH THE ORGANIZATION OF THE DEPARTMENT;

6 (2) CREATE UNITS IN THE DEPARTMENT;

7 (3) DEFINE THE FUNCTIONS, DUTIES, AND RESPONSIBILITIES OF EACH
8 UNIT IN THE DEPARTMENT;

9 (4) REDEFINE PERIODICALLY THE FUNCTIONS, DUTIES, AND
10 RESPONSIBILITIES OF ANY UNIT IN THE DEPARTMENT, WHETHER CREATED BY THE
11 SECRETARY OR BY LAW;

12 (5) ASSIGN AND REASSIGN EMPLOYEES OF THE DEPARTMENT TO THE
13 DUTIES, UNITS, AND REGIONAL FACILITIES OF THE DEPARTMENT AS THE
14 SECRETARY CONSIDERS NECESSARY TO SERVE THE NEEDS OF THE DEPARTMENT
15 AND THE PUBLIC;

16 (6) ESTABLISH STANDARDS, QUALIFICATIONS, AND PREREQUISITES OF
17 CHARACTER, TRAINING, EDUCATION, AND EXPERIENCE FOR EMPLOYEES OF THE
18 DEPARTMENT;

19 (7) ESTABLISH RANKS AND GRADES AND, IN ACCORDANCE WITH TITLE
20 6, SUBTITLE 4 OF THE STATE PERSONNEL AND PENSIONS ARTICLE, CIVILIAN
21 CLASSIFICATIONS AS THE SECRETARY CONSIDERS NECESSARY AND APPROPRIATE;

22 (8) DESIGNATE THE AUTHORITY, RESPONSIBILITY, AND DUTIES OF
23 RANKS, GRADES, AND CIVILIAN CLASSIFICATIONS AND THE ORDER OF SUCCESSION
24 TO POSITIONS OF COMMAND WITHIN THE DEPARTMENT;

25 (9) APPOINT, PROMOTE, REDUCE IN RANK OR CIVILIAN
26 CLASSIFICATION, REASSIGN, RECLASSIFY, RETIRE, AND DISCHARGE ANY EMPLOYEE
27 OF THE DEPARTMENT IN THE MANNER REQUIRED BY LAW;

28 (10) REGULATE ATTENDANCE, CONDUCT, TRAINING, DISCIPLINE, AND
29 PROCEDURE FOR EMPLOYEES OF THE DEPARTMENT;

30 (11) PROVIDE SYSTEMS FOR PERIODIC EVALUATION AND IMPROVEMENT
31 OF THE PERFORMANCE AND PHYSICAL CONDITION OF EMPLOYEES OF THE
32 DEPARTMENT, INCLUDING IN-SERVICE TRAINING PROGRAMS AND COURSES;

33 (12) ESTABLISH HEADQUARTERS, BARRACKS, POSTS, COMMANDS, AND
34 OTHER REGIONAL FACILITIES IN LOCALITIES AS NECESSARY FOR THE EFFICIENT
35 PERFORMANCE OF THE DUTIES OF THE DEPARTMENT;

1 (13) CLOSE HEADQUARTERS, BARRACKS, POSTS, COMMANDS, AND OTHER
2 REGIONAL FACILITIES WHEN THEIR NEED CEASES TO EXIST;

3 (14) PURCHASE OR OTHERWISE ACQUIRE THE LAND, FACILITIES,
4 EQUIPMENT, OR SERVICES AS ARE CONSIDERED ESSENTIAL FOR THE NEEDS OF THE
5 DEPARTMENT OR ITS EMPLOYEES IN CARRYING OUT THEIR DUTIES, IN THE MANNER
6 REQUIRED BY LAW;

7 (15) SELL OR DISPOSE OF LAND, FACILITIES, OR EQUIPMENT AS THEY
8 BECOME UNNECESSARY OR UNFIT FOR FURTHER USE, IN THE MANNER REQUIRED
9 BY LAW;

10 (16) ESTABLISH AND MODIFY SYSTEMS FOR RECEIVING, PROCESSING,
11 AND MAINTAINING:

12 (I) REPORTS AND RECORDS OF OCCURRENCES OR ALLEGED
13 OCCURRENCES OF CRIME AND MOTOR VEHICLE ACCIDENTS IN THE STATE; AND

14 (II) REPORTS AND RECORDS OF THE ADMINISTRATION,
15 MANAGEMENT, AND OPERATIONS OF THE DEPARTMENT; AND

16 (17) ESTABLISH PROCEDURES FOR SAFEKEEPING, COPYING, AND
17 DESTROYING RECORDS OF THE DEPARTMENT.

18 (C) LIMITATION.

19 THE SECRETARY MAY NOT EXERCISE OR PERFORM THE POWERS, DUTIES,
20 RESPONSIBILITIES, AND FUNCTIONS SET FORTH IN §§ 6-301, 6-302, AND 6-501 OF THIS
21 ARTICLE.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 88B, § 15(c) and (b)(1) through (13) and, as it
24 related to the Secretary and deputy secretary, the first sentence of § 4(b).

25 In the introductory language of subsection (b) of this section, the former
26 reference to the Secretary "supervising and directing the affairs of the
27 Department and exercising the powers referred to in the preceding
28 subsection" is deleted as unnecessary. The Secretary has the duty to
29 supervise and direct the affairs of the Department under § 2-202(e)(1) of
30 this subtitle. The "preceding subsection" - former Art. 88B, § 15(a) - is
31 revised in § 2-205(a) of this subtitle. The power of the Secretary under §
32 2-205(a) of this subtitle stands on its own as a substantive provision and
33 need not specifically be cross-referenced in subsection (b) of this section.

34 In subsection (b)(1) of this section, the former reference to the power to
35 "determine" the "form of" organization of the Department is deleted as
36 surplusage in light of the reference to the power to "establish" the
37 organization of the Department.

38 In subsection (b)(2) of this section, the reference to "units" is substituted

1 for the former reference to "subordinate organizational subdivisions" for
2 brevity and consistency with other revised articles of the Code. Similarly,
3 in subsection (b)(3), (4), and (5) of this section, the references to a "unit" are
4 substituted for the former references to an "organizational subdivision[s]"
5 and a "departmental subdivision". *See* General Revisor's Note to article.

6 In subsection (b)(3) of this section, the former word "determine" is deleted
7 as surplusage in light of the word "define". Similarly, in subsection (b)(4) of
8 this section, the former word "reclassify" is deleted as included in the word
9 "redefine".

10 In subsection (b)(5) of this section, the former reference to the power to
11 "allocate and reallocate" employees is deleted as included in the reference
12 to the power to "assign and reassign" employees.

13 Also in subsection (b)(5) of this section, the former reference to "best" serve
14 the needs of the Department and the public is deleted as implicit.

15 In subsection (b)(12) and (13) of this section, the Secretary has the power to
16 establish specified facilities "as necessary" for the efficient performance of
17 the duties of the Department and to close them when their need "ceases to
18 exist". Former Art. 88B, § 15(b)(10), from which these revised provisions
19 were derived, did not specify what entity determined when the facilities
20 were necessary or when their need ceased to exist. Arguably, it is implicit
21 that the entity who makes these determinations is the Secretary. Similarly,
22 in subsection (b)(14) of this section, the Secretary has the power to make
23 specified purchases and acquisitions "as are considered essential for the
24 needs of the Department", but the provision does not explicitly state the
25 entity that considers them to be essential. *See* former Art. 88B, § 15(b)(11).
26 However, in subsection (b)(5) and (7) of this section, the revision, reflecting
27 former Art. 88B, § 15(b)(3) and (5) from which those revised provisions
28 were derived, states explicitly that the Secretary determines when
29 assignment and reassignment of employees and the establishment of
30 ranks and grades is necessary. The Public Safety Article Review
31 Committee calls this difference in similar provisions of the law to the
32 attention of the General Assembly.

33 In subsection (b)(17) of this section, the former phrase "not inconsistent
34 with law", which modified procedures for safekeeping, copying, and
35 destroying records of the Department, is deleted as implicit.

36 The Public Safety Article Review Committee notes, for consideration by the
37 General Assembly, that the references in former Art. 88B, § 15(c) to "Article
38 38A, §§ 7(a) and 14(a) of the Code", revised in subsection (c) of this section,
39 do not make sense. The cross-referenced provisions establish the office of
40 State Fire Marshal and provide for appeals to the State Fire Prevention
41 Commission. Because the Public Safety Article Review Committee could
42 not determine what the proper cross-references should be, the seemingly
43 incorrect cross-references are retained in the revision.

1 Defined terms: "Civilian classification" § 2-101

2 "Department" § 2-101

3 "Grade" § 2-101

4 "Rank" § 2-101

5 "Secretary" § 2-101

6 2-205. RULES.

7 (A) POWER OF SECRETARY TO ADOPT.

8 THE SECRETARY MAY ADOPT RULES NECESSARY TO:

9 (1) PROMOTE THE EFFECTIVE AND EFFICIENT PERFORMANCE OF THE
10 DUTIES OF THE DEPARTMENT; AND

11 (2) ENSURE THE GOOD GOVERNMENT OF THE DEPARTMENT AND ITS
12 EMPLOYEES.

13 (B) CHANGES TO RULES.

14 THE SECRETARY MAY SUSPEND, AMEND, RESCIND, ABROGATE, OR CANCEL ANY
15 RULE ADOPTED BY THE SECRETARY OR ANY FORMER SECRETARY.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 88B, § 15(a) and (b)(14).

18 Defined terms: "Department" § 2-101

19 "Rule" § 2-101

20 "Secretary" § 2-101

21 2-206. COUNSEL TO DEPARTMENT.

22 THE ATTORNEY GENERAL SHALL REPRESENT THE DEPARTMENT.

23 REVISOR'S NOTE: This section formerly was Art. 88B, § 29.

24 The only changes are in style.

25 *See generally* SG § 6-106, which provides that the Attorney General
26 generally "is the [sole] legal adviser [for] ... each ... unit of the State
27 government".

28 Defined term: "Department" § 2-101

29 2-207. UNITS IN DEPARTMENT.

30 THE FOLLOWING UNITS ARE IN THE DEPARTMENT:

31 (1) THE STATE FIRE PREVENTION COMMISSION;

32 (2) THE OFFICE OF STATE FIRE MARSHAL; AND

1 (3) ANY OTHER UNIT DETERMINED BY THE SECRETARY TO BE PART OF
2 THE DEPARTMENT OR ESTABLISHED BY LAW AS PART OF THE DEPARTMENT.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 88B, § 1(b).

5 In items (1) and (2) of this section, the former phrase "as provided by
6 Article 38A of the Code" is deleted as unnecessary. The relevant provisions
7 on the State Fire Prevention Commission and the office of State Fire
8 Marshal that formerly appeared in Article 38A now appear in Title 6 of this
9 article.

10 In item (3) of this section, the reference to a "unit" is substituted for the
11 former reference to any other "divisions, agencies, offices, commissions,
12 boards, committees, councils, or units of government" for brevity and
13 consistency throughout this article. *See* General Revisor's Note to article.

14 Defined terms: "Department" § 2-101

15 "Secretary" § 2-101

16 2-208. DEPARTMENTAL FINANCES.

17 (A) SALARIES, EXPENSES, AND COSTS OF DEPARTMENT.

18 (1) SALARIES, EXPENSES, AND OTHER COSTS INCIDENT TO THE
19 OPERATION OF THE DEPARTMENT AND THE PERFORMANCE OF ITS DUTIES, IN
20 ACCORDANCE WITH THE STATE BUDGET, SHALL BE DISBURSED IN THE MANNER
21 REQUIRED BY LAW.

22 (2) THE SOURCE OF THE DEPARTMENT'S MONEY FOR THE COSTS
23 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE DETERMINED IN
24 ACCORDANCE WITH § 12-118 OF THE TRANSPORTATION ARTICLE OR AS OTHERWISE
25 PROVIDED BY LAW.

26 (B) DISPOSITION OF MONEY.

27 EXCEPT AS PROVIDED IN § 2-311 OF THIS TITLE OR AS OTHERWISE PROVIDED BY
28 LAW, ALL OTHER MONEY RECEIVED BY THE DEPARTMENT SHALL BE PAID INTO THE
29 STATE TREASURY AND CREDITED TO THE USE OF THE DEPARTMENT.

30 (C) AUDIT.

31 THE FINANCES OF THE DEPARTMENT ARE SUBJECT TO AUDIT AS PROVIDED BY
32 LAW.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 88B, § 28.

35 In subsection (a)(1) of this section, the phrase "[i]n accordance with" the
36 State budget is substituted for the former phrase "in such amount as is

1 established by" the budget for consistency with similar provisions
2 throughout the revised articles of the Code.

3 In subsection (a)(2) of this section, the reference to "money" is substituted
4 for the former reference to "funds" for consistency with subsection (b) of
5 this section.

6 Defined term: "Department" § 2-101

7 SUBTITLE 3. POWERS AND DUTIES OF DEPARTMENT.

8 2-301. GENERAL DUTIES OF DEPARTMENT.

9 (A) LAW ENFORCEMENT DUTIES.

10 (1) THE DEPARTMENT HAS THE GENERAL DUTY TO SAFEGUARD THE
11 LIVES AND SAFETY OF ALL PERSONS IN THE STATE, TO PROTECT PROPERTY, AND TO
12 ASSIST IN SECURING TO ALL PERSONS THE EQUAL PROTECTION OF THE LAWS.

13 (2) SPECIFICALLY, THIS DUTY INCLUDES THE RESPONSIBILITY TO:

14 (I) PRESERVE THE PUBLIC PEACE;

15 (II) DETECT AND PREVENT THE COMMISSION OF CRIME;

16 (III) ENFORCE THE LAWS AND ORDINANCES OF THE STATE,
17 COUNTIES, AND MUNICIPAL CORPORATIONS;

18 (IV) APPREHEND AND ARREST CRIMINALS AND THOSE WHO
19 VIOLATE OR ARE LAWFULLY ACCUSED OF VIOLATING THE LAWS AND ORDINANCES
20 OF THE STATE, COUNTIES, AND MUNICIPAL CORPORATIONS;

21 (V) PRESERVE ORDER AT PUBLIC PLACES;

22 (VI) MAINTAIN THE SAFE AND ORDERLY FLOW OF TRAFFIC ON
23 PUBLIC STREETS AND HIGHWAYS;

24 (VII) COOPERATE WITH AND ASSIST LAW ENFORCEMENT AGENCIES
25 IN CARRYING OUT THEIR RESPECTIVE DUTIES; AND

26 (VIII) DISCHARGE THE DUTIES AND RESPONSIBILITIES OF THE
27 DEPARTMENT WITH THE DIGNITY AND IN A MANNER THAT WILL INSPIRE PUBLIC
28 CONFIDENCE AND RESPECT.

29 (B) REGULATORY DUTIES.

30 THE DEPARTMENT SHALL:

31 (1) ADMINISTER THE LAWS THAT RELATE TO:

32 (I) THE SALES OF PISTOLS AND REVOLVERS;

- 1 (II) THE LICENSING AND SUPERVISION OF PRIVATE DETECTIVE
2 AGENCIES;
- 3 (III) THE CERTIFICATION OF PRIVATE DETECTIVES AND SECURITY
4 GUARDS;
- 5 (IV) THE REGISTRATION OF EAVESDROPPING OR WIRETAPPING
6 DEVICES; AND
- 7 (V) THE INSPECTION OF CLASSES OF MOTOR VEHICLES AS
8 PROVIDED ELSEWHERE IN THE CODE; AND
- 9 (2) PERFORM ANY OTHER DUTY THAT MAY BE ASSIGNED BY THE
10 GENERAL ASSEMBLY.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 88B, §§ 3 and 13.

13 In subsection (a)(2)(iii) of this section, the specific references to "counties"
14 and "municipal corporations" are substituted for the former general
15 reference to "local subdivisions" for clarity and consistency throughout this
16 article. Consequently, in subsection (a)(2)(iv) of this section, the reference
17 to the laws and ordinances "of the State, counties, and municipal
18 corporations" is added to clarify the former reference to "such" laws and
19 ordinances.

20 As to subsection (b)(1)(v) of this section, *see generally* Title 24 of the
21 Transportation Article.

22 In subsection (b)(2) of this section, the former phrase "from time to time" is
23 deleted as implicit.

24 Defined terms: "County" § 1-101

25 "Department" § 2-101

26 "Law enforcement agency" § 2-101

27 "Person" § 1-101

28 2-302. COORDINATION WITH OTHER LAW ENFORCEMENT AGENCIES.

29 (A) SUPPLEMENTAL AND CONCURRENT POWERS AND DUTIES.

30 THE POWERS AND DUTIES OF THE DEPARTMENT WITH RESPECT TO LAW
31 ENFORCEMENT ARE SUPPLEMENTAL TO AND CONCURRENT WITH SIMILAR POWERS
32 AND DUTIES CONFERRED BY LAW ON OTHER LAW ENFORCEMENT AGENCIES OF THE
33 STATE IN THEIR RESPECTIVE JURISDICTIONS.

34 (B) COOPERATION AMONG LAW ENFORCEMENT AGENCIES.

35 (1) TECHNOLOGICAL DEVELOPMENTS, CHANGES IN THE POPULATION
36 AND ECONOMY OF THE STATE, AND OTHER FACTORS DIRECTLY RELATED TO PROPER

1 LAW ENFORCEMENT REQUIRE EFFECTIVE COOPERATION AMONG ALL LAW
2 ENFORCEMENT AGENCIES IN ORDER TO PROVIDE:

3 (I) EFFICIENT UTILIZATION OF EQUIPMENT, PERSONNEL, AND
4 INFORMATION; AND

5 (II) PROMPT MEANS OF COLLECTION, ANALYSIS, AND
6 DISSEMINATION OF INFORMATION RELEVANT TO THE DUTIES OF THE LAW
7 ENFORCEMENT AGENCIES.

8 (2) THE DUTIES IMPOSED ON THE DEPARTMENT BY THIS TITLE:

9 (I) SHALL PROMOTE EFFECTIVE COOPERATION AMONG LAW
10 ENFORCEMENT AGENCIES; AND

11 (II) DO NOT LIMIT THE POWERS OR RESPONSIBILITIES OF ANY
12 OTHER LAW ENFORCEMENT AGENCY OR MAKE ANY OTHER LAW ENFORCEMENT
13 AGENCY SUBJECT TO THE SUPERVISION OF THE DEPARTMENT.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 88B, § 5.

16 In the introductory language of subsection (b)(2) of this section, the general
17 reference to the duties imposed by this "title" is substituted for the former
18 specific reference to the duties imposed by this "subtitle" because some
19 duties of the Department are found in other subtitles of this title. No
20 substantive change is intended.

21 Defined terms: "Department" § 2-101

22 "Law enforcement agency" § 2-101

23 2-303. TRAINING FACILITIES.

24 (A) AVAILABILITY TO OTHER AGENCIES.

25 AS PROVIDED IN THE STATE BUDGET, THE DEPARTMENT SHALL MAKE ITS
26 TRAINING FACILITIES AVAILABLE TO ANY LAW ENFORCEMENT AGENCY OF THE
27 STATE AND TO THE POLICE TRAINING COMMISSION TO THE EXTENT THAT THE
28 TRAINING FACILITIES AND EMPLOYEES OF THE DEPARTMENT ARE AVAILABLE.

29 (B) RULES.

30 THE SECRETARY SHALL ADOPT RULES TO GOVERN:

31 (1) THE EXTENT TO WHICH THE TRAINING FACILITIES OF THE
32 DEPARTMENT MAY BE USED;

33 (2) THE COURSE OF TRAINING; AND

34 (3) THE QUALIFICATIONS OF INDIVIDUALS WHO WILL USE THE
35 TRAINING FACILITIES.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 88B, § 6.

3 In subsection (a) of this section, the phrase "[a]s provided in the State
4 budget" is substituted for the former phrase "to the extent permitted by
5 fiscal appropriation" to conform to language used in other revised articles
6 of the Code.

7 In subsection (b)(3) of this section, the reference to "individuals" is
8 substituted for the former reference to "persons" because human beings,
9 and not the other entities included in the defined term "person", use the
10 training facilities of the Department.

11 Defined terms: "Department" § 2-101

12 "Law enforcement agency" § 2-101

13 "Rule" § 2-101

14 "Secretary" § 2-101

15 2-304. COMPUTER AND COMMUNICATION SYSTEMS.

16 (A) USE BY OTHER AGENCIES AND UNITS.

17 THE DEPARTMENT MAY PERMIT A LAW ENFORCEMENT AGENCY OF THE STATE
18 OR A STATE UNIT TO CONNECT WITH AND USE A COMPUTER OR COMMUNICATION
19 SYSTEM ESTABLISHED BY THE DEPARTMENT FOR STATEWIDE USE INCLUDING:

20 (1) A VOICE COMMUNICATION SYSTEM;

21 (2) A DATA COMMUNICATION SYSTEM;

22 (3) A MESSAGE SWITCHING SYSTEM;

23 (4) THE MARYLAND INTERAGENCY LAW ENFORCEMENT SYSTEM
24 (MILES);

25 (5) THE NATIONAL CRIME INFORMATION CENTER (NCIC); AND

26 (6) THE NATIONAL LAW ENFORCEMENT TELECOMMUNICATIONS
27 SYSTEM (NLETS).

28 (B) RULES.

29 (1) THE CONNECTION WITH AND USE OF A COMPUTER OR
30 COMMUNICATION SYSTEM UNDER THIS SECTION IS SUBJECT TO RULES ADOPTED BY
31 THE SECRETARY TO:

32 (I) PROMOTE THE PURPOSES OF THIS TITLE;

33 (II) ENSURE THE EFFECTIVE, ECONOMICAL, AND EFFICIENT
34 UTILIZATION OF THE ENTIRE SYSTEM; AND

1 (III) PREVENT INTERFERENCE WITH THE LAW ENFORCEMENT
2 DUTIES OF THE DEPARTMENT.

3 (2) VIOLATION OF A RULE ADOPTED UNDER THIS SUBSECTION IS A
4 SUFFICIENT BASIS TO WITHDRAW PERMISSION TO CONNECT WITH AND USE THE
5 COMPUTER OR COMMUNICATION SYSTEM.

6 (C) COSTS.

7 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AS
8 PROVIDED IN THE STATE BUDGET, THE STATE SHALL PAY THE COST OF RENTAL OF
9 THE COMPUTER AND COMMUNICATION EQUIPMENT AND THE CIRCUITRY
10 NECESSARY FOR THE EQUIPMENT UNDER THIS SECTION.

11 (2) A LAW ENFORCEMENT AGENCY THAT USES THE DEPARTMENT'S
12 COMPUTER OR COMMUNICATION SYSTEM SHALL PAY THE COSTS OF SUPPLIES AND
13 OTHER CHARGES FOR THE RENTAL OR PURCHASE OF TERMINAL DEVICES AND THE
14 CIRCUITRY NECESSARY TO CONNECT WITH THE DEPARTMENT'S COMPUTER OR
15 COMMUNICATION SYSTEM.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 88B, § 7.

18 In the introductory language of subsection (a) of this section, the reference
19 to "a computer or communication system" is substituted for the former
20 reference to "any computer ... or other communication system" for clarity.
21 Consequently, throughout subsections (b) and (c) of this section, references
22 to a "computer or communication system" are added for consistency with
23 subsection (a) of this section.

24 Also in the introductory language of subsection (a) of this section, the
25 former reference to a State unit "authorized by the Department" is deleted
26 as redundant.

27 In subsection (c)(1) of this section, the phrase "as provided in the State
28 budget" is substituted for the former phrase "[t]o the extent permitted by
29 specific budget appropriation" to conform to language used in other revised
30 articles of the Code.

31 Defined terms: "Department" § 2-101

32 "Law enforcement agency" § 2-101

33 "Rule" § 2-101

34 "Secretary" § 2-101

35 2-305. CIVIL CHILD SUPPORT WARRANTS AND CIVIL PROTECTIVE ORDERS.

36 (A) DEFINITIONS.

37 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
38 INDICATED.

1 (2) "CIVIL CHILD SUPPORT WARRANT" MEANS ANY OF THE FOLLOWING,
2 WHEN ISSUED FOR THE ENFORCEMENT OF A CHILD SUPPORT ORDER:

3 (I) AN ARREST WARRANT;

4 (II) A BENCH WARRANT;

5 (III) A BODY ATTACHMENT ISSUED BY A CIRCUIT COURT; OR

6 (IV) A WARRANT FOR FAILURE TO APPEAR.

7 (3) "CIVIL PROTECTIVE ORDER" MEANS:

8 (I) A TEMPORARY EX PARTE ORDER ISSUED UNDER § 4-505 OF THE
9 FAMILY LAW ARTICLE;

10 (II) A PROTECTIVE ORDER ISSUED UNDER § 4-506 OF THE FAMILY
11 LAW ARTICLE; OR

12 (III) AN ORDER FOR PROTECTION, AS DEFINED IN § 4-508.1 OF THE
13 FAMILY LAW ARTICLE, ISSUED BY A COURT OF ANOTHER STATE OR A NATIVE
14 AMERICAN TRIBE AND FILED WITH THE DISTRICT COURT OR A CIRCUIT COURT
15 UNDER § 4-508.1 OF THE FAMILY LAW ARTICLE.

16 (4) "SYSTEM" MEANS THE MARYLAND INTERAGENCY LAW
17 ENFORCEMENT SYSTEM.

18 (B) DUTIES OF DEPARTMENT.

19 THE DEPARTMENT SHALL:

20 (1) COOPERATE WITH LOCAL CHILD SUPPORT ENFORCEMENT OFFICES
21 AND LAW ENFORCEMENT AGENCIES TO RECEIVE, ACCEPT, AND INCORPORATE CIVIL
22 CHILD SUPPORT WARRANTS IN THE SYSTEM; AND

23 (2) COOPERATE WITH THE ADMINISTRATIVE OFFICE OF THE COURTS,
24 THE CHIEF CLERK OF THE DISTRICT COURT OF MARYLAND, AND THE CLERKS OF THE
25 CIRCUIT COURTS TO RECEIVE, ACCEPT, AND INCORPORATE CIVIL PROTECTIVE
26 ORDERS IN THE SYSTEM.

27 (C) ENTRY IN SYSTEM.

28 (1) LOCAL CHILD SUPPORT ENFORCEMENT OFFICES AND APPROPRIATE
29 LOCAL LAW ENFORCEMENT AGENCIES SHALL BE RESPONSIBLE FOR ENTRY,
30 MAINTENANCE, AND PROMPT VALIDATION OF CIVIL CHILD SUPPORT WARRANTS IN
31 THE SYSTEM IN ACCORDANCE WITH PROCEDURES ADOPTED BY THE DEPARTMENT.

32 (2) THE CLERKS OF THE COURTS AND APPROPRIATE LOCAL LAW
33 ENFORCEMENT AGENCIES SHALL BE RESPONSIBLE FOR ENTRY, MAINTENANCE, AND
34 PROMPT VALIDATION OF CIVIL PROTECTIVE ORDERS IN THE SYSTEM IN
35 ACCORDANCE WITH PROCEDURES ADOPTED BY THE DEPARTMENT.

1 (D) ACCESS TO SYSTEM TO DETERMINE STATUS.

2 A JUDGE OR LAW ENFORCEMENT AGENCY OR OFFICER MAY ACCESS THE
3 SYSTEM TO DETERMINE THE STATUS OF:

4 (1) AN OUTSTANDING CIVIL CHILD SUPPORT WARRANT ISSUED BY A
5 COURT OF THE STATE;

6 (2) AN OUTSTANDING CIVIL PROTECTIVE ORDER ISSUED BY A COURT OF
7 THE STATE; AND

8 (3) AN OUTSTANDING CIVIL PROTECTIVE ORDER ISSUED BY A COURT OF
9 ANOTHER STATE OR AN INDIAN TRIBE AND FILED WITH THE DISTRICT COURT OR A
10 CIRCUIT COURT.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 88B, § 7A.

13 In subsection (a)(3)(i) of this section, the reference to a "temporary" ex
14 parte order is added for consistency with terminology used in FL § 4-505.

15 Defined terms: "Department" § 2-101

16 "Law enforcement agency" § 2-101

17 "State" § 2-101

18 2-306. INFORMATION ABOUT OCCURRENCE OF MOTOR VEHICLE ACCIDENTS.

19 (A) IN GENERAL.

20 THE DEPARTMENT SHALL COLLECT, ANALYZE, AND DISSEMINATE
21 INFORMATION ABOUT THE OCCURRENCE OF MOTOR VEHICLE ACCIDENTS IN THE
22 STATE.

23 (B) INFORMATION PROVIDED BY OTHER AGENCIES AND COMMISSIONS.

24 THE MOTOR VEHICLE ADMINISTRATION, STATE HIGHWAY ADMINISTRATION,
25 STATE POSTMORTEM EXAMINERS COMMISSION, COMMISSIONS CONCERNED WITH
26 HIGHWAY SAFETY, AND LAW ENFORCEMENT AGENCIES OF THE STATE SHALL
27 PROVIDE INFORMATION ABOUT THE OCCURRENCE OF MOTOR VEHICLE ACCIDENTS
28 IN THE STATE TO THE DEPARTMENT AT THE TIMES AND IN THE FORM THAT THE
29 SECRETARY REQUIRES BY RULE.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 88B, § 8.

32 In subsection (a) of this section, former Art. 88B, § 2(6), which defined
33 "motor vehicle" to mean a motor vehicle as defined in the Maryland Vehicle
34 Law, is deleted. The sense in which the former law defined the term "motor
35 vehicle" is implicit in the way the term is used in the revision and
36 consequently the former definition is unnecessary in the revision.

1 %In subsection (b) of this section, the reference to information provided to
2 "the Department" is added to clarify to whom the information is to be
3 provided.

4 Defined terms: "Department" § 2-101

5 "Law enforcement agency" § 2-101

6 "Rule" § 2-101

7 "Secretary" § 2-101

8 2-307. INFORMATION ABOUT INCIDENCE OF CRIME.

9 (A) IN GENERAL.

10 THE DEPARTMENT SHALL COLLECT, ANALYZE, AND DISSEMINATE
11 INFORMATION ABOUT THE INCIDENCE OF CRIME IN THE STATE.

12 (B) HATE CRIMES.

13 (1) THE DEPARTMENT SHALL COLLECT AND ANALYZE INFORMATION
14 ABOUT INCIDENTS APPARENTLY DIRECTED AGAINST AN INDIVIDUAL OR GROUP
15 BECAUSE OF RACE, RELIGION, ETHNICITY, OR SEXUAL ORIENTATION.

16 (2) EACH LOCAL LAW ENFORCEMENT AGENCY AND THE STATE FIRE
17 MARSHAL SHALL PROVIDE THE DEPARTMENT WITH THE INFORMATION DESCRIBED
18 IN PARAGRAPH (1) OF THIS SUBSECTION.

19 (3) THE DEPARTMENT SHALL ADOPT PROCEDURES FOR THE
20 COLLECTION AND ANALYSIS OF THE INFORMATION DESCRIBED IN PARAGRAPH (1) OF
21 THIS SUBSECTION.

22 (4) THE DEPARTMENT SHALL MAKE MONTHLY REPORTS TO THE
23 COMMISSION ON HUMAN RELATIONS ABOUT THE INFORMATION DESCRIBED IN
24 PARAGRAPH (1) OF THIS SUBSECTION.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 88B, §§ 9 and 10(b).

27 In subsection (b)(1) of this section, the former reference to the "individual's
28 or the group's" race, religion, ethnicity, or sexual orientation is deleted as
29 implicit.

30 In subsection (b)(4) of this section, the reference to the "Commission on
31 Human Relations" is substituted for the former reference to the "State
32 Human Relations Commission" to reflect the official name of that unit. *See*
33 Art. 49B, § 1.

34 Defined terms: "Department" § 2-101

35 "Law enforcement agency" § 2-101

1 2-308. DISSEMINATION OF INFORMATION.

2 (A) AVAILABILITY OF INFORMATION TO AGENCIES AND UNITS.

3 (1) ANY INFORMATION, RECORDS, OR STATISTICS COLLECTED UNDER
4 THIS SUBTITLE SHALL BE AVAILABLE FOR USE BY ANY AGENCY OR UNIT REQUIRED
5 TO PROVIDE INFORMATION TO THE DEPARTMENT.

6 (2) BY RULE, THE SECRETARY MAY ESTABLISH CONDITIONS FOR THE
7 USE OR AVAILABILITY OF THE INFORMATION DESCRIBED IN PARAGRAPH (1) OF THIS
8 SUBSECTION AS NECESSARY:

9 (I) TO PRESERVE THE INFORMATION;

10 (II) TO PROTECT ANY CONFIDENTIAL INFORMATION; OR

11 (III) BECAUSE OF A PENDING PROSECUTION.

12 (B) PUBLICATION OF STATISTICS.

13 (1) THE DEPARTMENT:

14 (I) SHALL PERIODICALLY PUBLISH STATISTICS ON THE
15 INCIDENCE OF CRIME IN THE STATE; AND

16 (II) AT LEAST MONTHLY SHALL PUBLISH STATISTICS ABOUT THE
17 OCCURRENCE AND CAUSE OF ALL MOTOR VEHICLE ACCIDENTS IN THE STATE.

18 (2) A STATISTICAL REPORT ON THE INCIDENCE OF CRIME PUBLISHED
19 UNDER THIS SUBSECTION MAY NOT NAME OR OTHERWISE IDENTIFY A PARTICULAR
20 KNOWN OR SUSPECTED OFFENDER.

21 (3) THE DEPARTMENT SHALL DISTRIBUTE THE REPORTS REQUIRED BY
22 THIS SUBSECTION TO:

23 (I) EACH AGENCY OR UNIT THAT CONTRIBUTED INFORMATION
24 CONTAINED IN THE REPORTS;

25 (II) THE PRESS; AND

26 (III) ANY OTHER INTERESTED PERSON.

27 (4) BY RULE, THE SECRETARY MAY ESTABLISH CONDITIONS UNDER
28 WHICH REPORTS OF SPECIFIC MOTOR VEHICLE ACCIDENTS MAY BE MADE
29 AVAILABLE ON REQUEST TO THE PUBLIC.

30 (C) DOCUMENT SEARCH FEE.

31 (1) THE FEE FOR CONDUCTING A DOCUMENT SEARCH IS \$4.

1 (2) THE DEPARTMENT SHALL APPLY THE MONEY RECEIVED FROM
2 CONDUCTING DOCUMENT SEARCHES TO THE COST OF PROVIDING THIS SERVICE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 88B, §§ 11 and 10(a).

5 In subsections (a)(1) and (b)(3)(i) of this section, the references to a "unit"
6 are added because some of the entities required to provide information are
7 units of State government.

8 In subsection (a)(1) of this section, the phrase "to the Department" is added
9 to clarify the entity to which information was provided.

10 In subsection (a)(2)(iii) of this section, the former reference to the
11 "circumstances of" a pending prosecution is deleted as surplusage.

12 Defined terms: "Department" § 2-101

13 "Person" § 1-101

14 "Rule" § 2-101

15 "Secretary" § 2-101

16 2-309. RECOMMENDATIONS FOR LEGISLATION.

17 IN ANY REPORT ISSUED UNDER § 2-308 OF THIS SUBTITLE, THE DEPARTMENT
18 MAY INCLUDE RECOMMENDATIONS TO THE GOVERNOR, THE SECRETARY OF PUBLIC
19 SAFETY AND CORRECTIONAL SERVICES, AND, SUBJECT TO § 2-1246 OF THE STATE
20 GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY FOR LEGISLATION THAT THE
21 REPORT INDICATES IS NECESSARY OR DESIRABLE TO PROMOTE TRAFFIC SAFETY OR
22 REDUCE CRIME OR OTHERWISE TO ENSURE PROPER LAW ENFORCEMENT.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 88B, § 12.

25 The former specific reference to "the contents" of reports is deleted in light
26 of the general reference to "the report".

27 Defined term: "Department" § 2-101

28 2-310. CONFINEMENT OF ARRESTEES.

29 (A) IN GENERAL.

30 UNLESS SUFFICIENT FACILITIES ARE NOT AVAILABLE, THE MANAGING
31 OFFICIAL OF A CORRECTIONAL FACILITY SHALL RECEIVE AND CONFINED AN
32 INDIVIDUAL ARRESTED BY A POLICE EMPLOYEE WITHOUT WARRANT OR ON
33 WARRANT FROM A COUNTY.

34 (B) CUSTODY OF DEPARTMENT; RELEASE.

35 (1) AN INDIVIDUAL CONFINED UNDER SUBSECTION (A) OF THIS
36 SECTION:

1 (I) IS DEEMED TO BE IN THE CUSTODY OF THE DEPARTMENT; AND

2 (II) SHALL REMAIN CONFINED UNTIL A COURT OF COMPETENT
3 JURISDICTION ISSUES A WARRANT OR OTHER PROCESS, OR THE INDIVIDUAL IS
4 RETURNED TO THE COUNTY.

5 (2) BEFORE THE ISSUANCE OF A WARRANT OR PROCESS, AN INDIVIDUAL
6 CONFINED UNDER SUBSECTION (A) OF THIS SECTION MAY BE RELEASED ONLY TO
7 AND ON WRITTEN ORDER OF A POLICE EMPLOYEE.

8 (C) PROMPT ARRAIGNMENT.

9 (1) THIS SECTION DOES NOT ABRIDGE THE RIGHT OF AN INDIVIDUAL TO
10 BE TAKEN BEFORE A JUDICIAL OFFICER OF THE STATE PROMPTLY AFTER ARREST.

11 (2) THE MANAGING OFFICIAL OF A CORRECTIONAL FACILITY IN WHICH
12 AN INDIVIDUAL IS CONFINED UNDER THIS SECTION, SHALL NOTIFY THE STATE'S
13 ATTORNEY IMMEDIATELY IF THE INDIVIDUAL IS CONFINED FOR MORE THAN 12
14 HOURS.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 88B, § 25.

17 Throughout this section, references to an "individual" are substituted for
18 the former references to a "person" because only an individual, and not the
19 other entities included in the defined term "person", can be confined in a
20 correctional facility.

21 In subsections (a) and (b)(1)(ii) of this section, references to a "county" are
22 substituted for the former references to "another county" and "such other
23 county" because only one county is referred to in this section.

24 In subsections (a) and (c)(2) of this section, the references to a "managing
25 official" of a "correctional facility" are substituted for the former references
26 to a "person having charge of" a "jail or other place of detention" for
27 consistency with the terminology used in the Correctional Services Article.
28 *See* General Revisor's Note to Correctional Services Article.

29 Defined terms: "County" § 1-101

30 "Department" § 2-101

31 "Police employee" § 2-101

32 2-311. PERSONAL PROPERTY IN POSSESSION OF DEPARTMENT.

33 (A) SCOPE OF SECTION.

34 THIS SECTION DOES NOT APPLY TO PERSONAL PROPERTY PURCHASED OR
35 OTHERWISE ACQUIRED FOR USE BY THE DEPARTMENT OR TO CONTRABAND.

36 (B) IN GENERAL.

1 THE DEPARTMENT SHALL HOLD PERSONAL PROPERTY THAT COMES INTO THE
2 POSSESSION OF THE DEPARTMENT UNTIL THE DEPARTMENT DETERMINES THAT
3 THE PROPERTY IS NO LONGER NEEDED IN CONNECTION WITH A PROSECUTION.

4 (C) RETURN OF PROPERTY.

5 AFTER THE DEPARTMENT DETERMINES THAT PERSONAL PROPERTY IS NO
6 LONGER NEEDED IN CONNECTION WITH A PROSECUTION, THE DEPARTMENT SHALL
7 DELIVER THE PROPERTY TO THE PERSON WHO SATISFACTORILY ESTABLISHES THE
8 RIGHT TO POSSESSION OF THE PROPERTY AND GIVES A PROPER RECEIPT FOR THE
9 PROPERTY.

10 (D) SALE OF PROPERTY.

11 (1) AT ANY TIME AFTER PERSONAL PROPERTY HAS BEEN IN THE
12 POSSESSION OF THE DEPARTMENT FOR 6 MONTHS AND THE DEPARTMENT
13 DETERMINES THAT THE PROPERTY IS NO LONGER NEEDED IN CONNECTION WITH A
14 PROSECUTION, THE DEPARTMENT SHALL:

15 (I) GIVE NOTICE OF THE SALE OF THE PROPERTY BY REGISTERED
16 OR CERTIFIED MAIL TO THOSE PERSONS ENTITLED TO ITS POSSESSION AND TO
17 THOSE LIENHOLDERS WHOSE NAMES AND ADDRESSES CAN BE ASCERTAINED BY
18 THE EXERCISE OF REASONABLE DILIGENCE; AND

19 (II) PUBLISH A DESCRIPTION OF THE PROPERTY AND THE TIME,
20 PLACE, AND TERMS OF THE SALE OF THE PROPERTY IN A NEWSPAPER OF GENERAL
21 CIRCULATION IN BALTIMORE CITY IN EACH OF TWO SUCCESSIVE WEEKS.

22 (2) AFTER COMPLYING WITH THE REQUIREMENTS OF PARAGRAPH (1) OF
23 THIS SUBSECTION, THE DEPARTMENT MAY SELL THE PROPERTY AT PUBLIC
24 AUCTION.

25 (3) THE TERMS AND MANNER OF SALE MAY BE ESTABLISHED BY RULE.

26 (E) EVIDENCE OF TITLE.

27 THE CERTIFICATE OF THE DEPARTMENT THAT PERSONAL PROPERTY HAS BEEN
28 SOLD UNDER THIS SECTION IS SUFFICIENT EVIDENCE OF TITLE TO THE PROPERTY
29 FOR ALL PURPOSES, INCLUDING THE RIGHT TO OBTAIN A CERTIFICATE OF TITLE OR
30 REGISTRATION FROM AN APPROPRIATE UNIT OF THE STATE.

31 (F) PROCEEDS FROM SALE.

32 (1) THE AMOUNT RECEIVED FROM THE SALE OF PERSONAL PROPERTY
33 IN ACCORDANCE WITH THIS SECTION SHALL BE DISTRIBUTED IN THE FOLLOWING
34 ORDER OF PRIORITY:

35 (I) FIRST, TO THE DEPARTMENT IN AN AMOUNT EQUAL TO THE
36 EXPENSE OF SALE AND ALL EXPENSES INCURRED WHILE THE PROPERTY WAS IN THE
37 POSSESSION OF THE DEPARTMENT;

1 (II) SECOND, TO LIENHOLDERS IN ORDER OF THEIR PRIORITY; AND

2 (III) THIRD, TO THE GENERAL FUND SUBJECT TO PARAGRAPHS (2)
3 AND (3) OF THIS SUBSECTION.

4 (2) AT ANY TIME WITHIN 3 YEARS AFTER THE DATE OF A SALE UNDER
5 THIS SECTION, A PERSON WHO SUBMITS SATISFACTORY PROOF OF THE RIGHT TO
6 POSSESSION OF THE PROPERTY SHALL BE PAID, WITHOUT INTEREST, THE AMOUNT
7 DISTRIBUTED TO THE GENERAL FUND UNDER PARAGRAPH (1)(III) OF THIS
8 SUBSECTION.

9 (3) A CLAIM UNDER PARAGRAPH (2) OF THIS SUBSECTION IS BARRED IF
10 MORE THAN 3 YEARS HAS PASSED SINCE THE DATE OF A SALE UNDER THIS SECTION.

11 (G) EFFECT OF SECTION.

12 THIS SECTION DOES NOT CREATE OR RECOGNIZE ANY CAUSE, ACTION, OR
13 DEFENSE OR ABRIDGE ANY IMMUNITY NOW OR IN THE FUTURE HELD BY THE
14 DEPARTMENT, THE SECRETARY, OR AN EMPLOYEE OF THE DEPARTMENT.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 88B, § 27.

17 Subsection (a) of this section is revised as a scope provision, rather than a
18 definition of "personal property", because the former definition served to
19 delineate what types of property were not covered by this section.

20 Subsections (b), (c), and (d) of this section are revised to state expressly
21 that which only was implied in the former law, *i.e.*, that the Department is
22 responsible for holding the property, delivering it to the person with the
23 right to possession, and selling the property in accordance with the
24 requirements of this section.

25 In subsection (e) of this section, the reference to a "unit" is substituted for
26 the former reference to a "department". *See* General Revisor's Note to
27 article.

28 In subsection (f)(1)(iii) of this section, the former reference to the General
29 Fund "of the State of Maryland" is deleted as implicit in the reference to
30 the "General Fund".

31 In subsection (f)(3) of this section, the former reference to a claim being
32 "absolutely" barred is deleted as surplusage.

33 In subsection (g) of this section, the reference to an employee "of the
34 Department" is added for specificity.

35 Defined terms: "Department" § 2-101

36 "Person" § 1-101

37 "Rule" § 2-101

1 "Secretary" § 2-101

2 2-312. FINGERPRINTING FEES.

3 (A) IN GENERAL.

4 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE SECRETARY
5 SHALL CHARGE A FEE OF \$5 PER FINGERPRINT CARD TO EACH INDIVIDUAL WHO
6 REQUESTS THAT THE INDIVIDUAL BE FINGERPRINTED.

7 (B) EXCEPTIONS.

8 A FEE MAY NOT BE CHARGED TO AN INDIVIDUAL WHO IS:

9 (1) FINGERPRINTED AS A MATTER OF PROCEDURE IN A LAW
10 ENFORCEMENT ACTION;

11 (2) REQUIRED TO HAVE FINGERPRINTS RETAKEN BECAUSE OF ANY
12 FAULT OR ERROR BY THE DEPARTMENT DURING THE PREPARATION OF THE
13 FINGERPRINT CARD; OR

14 (3) OTHERWISE DECLARED BY THE SECRETARY TO BE EXEMPT FROM
15 THIS SECTION.

16 (C) REGULATIONS.

17 SUBJECT TO THE ADMINISTRATIVE PROCEDURE ACT, THE SECRETARY SHALL
18 ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 88B, § 27A.

21 In subsections (a) and (b) of this section, the references to an "individual"
22 are substituted for the former references to a "person" because only an
23 individual, and not the other entities included in the defined term
24 "person", can have fingerprints.

25 In subsection (a) of this section, the former reference to "the preparation
26 of" each fingerprint card is deleted as surplusage.

27 In subsection (c) of this section, the former reference to "rules" is deleted.
28 Because this provision specifically refers to "regulations" subject to the
29 "Administrative Procedure Act", the use of the defined term "rule" is
30 inappropriate in this context. *See* § 2-101 of this title.

31 Defined terms: "Department" § 2-101

32 "Secretary" § 2-101

33 2-313. LICENSES FOR DOGS USED FOR LAW ENFORCEMENT.

34 (A) REQUIRED.

1 EACH PUBLICLY OWNED DOG USED FOR LAW ENFORCEMENT WORK BY THE
2 STATE OR A LOCAL SUBDIVISION OF THE STATE SHALL HAVE A LICENSE ISSUED BY
3 THE DEPARTMENT UNDER THIS SECTION.

4 (B) ISSUANCE; CONTENTS; SCOPE.

5 (1) A LICENSE UNDER THIS SECTION SHALL BE ISSUED:

6 (I) ON THE FORM PREPARED AND PROVIDED BY THE
7 DEPARTMENT; AND

8 (II) TO THE LAW ENFORCEMENT OFFICER TO WHOM THE
9 LICENSED DOG IS ASSIGNED.

10 (2) EACH LICENSE SHALL:

11 (I) BE DATED AND NUMBERED;

12 (II) STATE THE LAW ENFORCEMENT AGENCY TO WHICH THE DOG
13 BELONGS; AND

14 (III) DESCRIBE THE DOG THAT IS LICENSED.

15 (3) A LICENSE ISSUED UNDER THIS SECTION IS VALID FOR ALL DOG
16 LICENSING PURPOSES ANYWHERE IN THE STATE.

17 (C) TERM.

18 A LICENSE ISSUED UNDER THIS SECTION IS IN EFFECT UNTIL THE EARLIER OF:

19 (1) REVOCATION OF THE LICENSE BY THE DEPARTMENT; AND

20 (2) REMOVAL OF THE LICENSED DOG FROM LAW ENFORCEMENT WORK.

21 (D) TAGS AND COLLAR.

22 (1) THE DEPARTMENT SHALL PROVIDE WITH EACH LICENSE A METAL
23 TAG THAT:

24 (I) IS STAMPED "DEPARTMENT OF STATE POLICE"; AND

25 (II) BEARS THE LICENSE NUMBER OF THE DOG.

26 (2) THE TAG SHALL BE AFFIXED TO A SUBSTANTIAL COLLAR TO BE
27 PROVIDED BY THE LAW ENFORCEMENT AGENCY TO WHICH THE DOG BELONGS.

28 (3) THE TAG AND COLLAR SHALL BE KEPT ON THE LICENSED DOG AT
29 ALL TIMES UNLESS THE DOG IS CONFINED IN A KENNEL OR IS UNDER THE
30 PERSONAL CHARGE OF THE LAW ENFORCEMENT OFFICER TO WHOM THE DOG IS
31 ASSIGNED.

1 (E) LIABILITY.

2 THE LICENSING RESPONSIBILITY OF THIS SECTION DOES NOT CREATE
3 LIABILITY FOR THE DEPARTMENT OR ITS OFFICERS OR EMPLOYEES FOR ANY ACTION
4 OF A LICENSED DOG OR THE LAW ENFORCEMENT OFFICER TO WHOM IT IS
5 ASSIGNED.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 88B, § 70.

8 In subsection (a) of this section, the reference to a "local subdivision" of the
9 State is substituted for the former reference to "any of its political
10 subdivisions" for specificity and to conform to language used throughout
11 this article.

12 Also in subsection (a) of this section, the former effective date "January 1,
13 1969" is deleted as obsolete.

14 In subsections (b)(2)(ii) and (d)(2) of this section, the references to a "law
15 enforcement agency" are substituted for the former references to an
16 "agency" for clarity and to use the defined term.

17 Defined terms: "Department" § 2-101

18 "Law enforcement agency" § 2-101

19 SUBTITLE 4. POLICE EMPLOYEES AND CIVILIAN EMPLOYEES.

20 2-401. APPLICABILITY OF STATE PERSONNEL AND PENSIONS ARTICLE.

21 (A) IN GENERAL.

22 IF THERE ARE INCONSISTENCIES BETWEEN THIS ARTICLE AND THE STATE
23 PERSONNEL AND PENSIONS ARTICLE, THIS ARTICLE CONTROLS AS TO ANY MATTER
24 THAT RELATES TO THE DEPARTMENT.

25 (B) POLICE EMPLOYEES.

26 EXCEPT AS EXPRESSLY PROVIDED IN THIS ARTICLE, THE STATE PERSONNEL
27 AND PENSIONS ARTICLE DOES NOT APPLY TO OR AFFECT THE COMPENSATION,
28 RANK, GRADE, OR STATUS OF POLICE EMPLOYEES.

29 (C) CIVILIAN EMPLOYEES.

30 EXCEPT AS EXPRESSLY PROVIDED IN THIS ARTICLE, THE COMPENSATION,
31 CIVILIAN CLASSIFICATION, AND STATUS OF CIVILIAN EMPLOYEES SHALL BE
32 DETERMINED IN ACCORDANCE WITH THE STATE PERSONNEL AND PENSIONS
33 ARTICLE.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 88B, § 24.

1 %In subsections (a) and (c) of this section, the general references to "this
2 article" are retained. The references in the revision to "this article" are
3 broader than the former references to "this article", which meant former
4 Article 88B, because this revised article includes provisions from other
5 articles in addition to Article 88B. No substantive change is intended.

6 In subsection (b) of this section, the reference to being expressly provided
7 "in this article" is substituted for the former reference to being expressly
8 provided "herein" for specificity and to conform to subsections (a) and (c) of
9 this section.

10 Defined terms: "Civilian classification" § 2-101

11 "Civilian employee" § 2-101

12 "Department" § 2-101

13 "Grade" § 2-101

14 "Police employee" § 2-101

15 "Rank" § 2-101

16 2-402. APPOINTMENT OF EMPLOYEES.

17 (A) IN GENERAL.

18 (1) IN ACCORDANCE WITH THE STATE BUDGET, THE SECRETARY SHALL
19 APPOINT THE EMPLOYEES THAT THE SECRETARY CONSIDERS NECESSARY FOR THE
20 EFFICIENT ADMINISTRATION OF THE DEPARTMENT.

21 (2) THE SECRETARY SHALL MAKE EACH APPOINTMENT FROM A LIST OF
22 ELIGIBLE CANDIDATES IN ACCORDANCE WITH THE STATE PERSONNEL AND
23 PENSIONS ARTICLE.

24 (B) QUALIFICATIONS FOR APPOINTMENT.

25 EACH APPOINTEE TO THE DEPARTMENT SHALL:

26 (1) BE A RESIDENT OF THE STATE ON THE DATE OF APPOINTMENT; AND

27 (2) HAVE THE CHARACTER, EDUCATION, AND OTHER QUALIFICATIONS
28 ESTABLISHED BY THE SECRETARY UNDER THIS TITLE.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 88B, § 17(a) and the first sentence of (b).

31 In subsection (a)(1) of this section, the phrase "[i]n accordance with the
32 State budget" is substituted for the former phrase "within the limits of any
33 appropriation made for such purpose" to conform to language used in this
34 and other revised articles of the Code. *See, e.g.*, CS § 2-106(a), BR
35 § 2-103(b)(1), and LE § 2-104(g).

36 In subsection (a)(2) of this section, the reference to the "Secretary" is added
37 to clarify who makes appointments to the Department and to restate this

1 provision in the active voice.

2 Also in subsection (a)(2) of this section, the reference to eligible
3 "candidates" is substituted for the former reference to eligible "persons" to
4 conform to language used in the State Personnel and Pensions Article. *See,*
5 *e.g.,* SP § 7-203.

6 In subsection (b)(1) of this section, the former reference to a "bona fide"
7 resident of the State is deleted as surplusage.

8 In subsection (b)(2) of this section, the former specific reference to "§ 15" of
9 former Article 88B is deleted as unnecessary in light of the general
10 reference to "this title". Former Art. 88B, § 15, as it related to establishing
11 qualifications for employees of the Department, is revised in § 2-204(b) of
12 this title.

13 Defined terms: "Department" § 2-101

14 "Secretary" § 2-101

15 2-403. PROBATION AFTER APPOINTMENT.

16 (A) POLICE EMPLOYEES.

17 EACH POLICE EMPLOYEE, INCLUDING AN INDIVIDUAL WHO IS APPOINTED TO
18 THE DEPARTMENT FOR TRAINING BEFORE REGULAR ASSIGNMENT AS A POLICE
19 EMPLOYEE, SHALL REMAIN IN PROBATIONARY STATUS FOR A PERIOD OF 2 YEARS
20 AFTER THE DATE OF APPOINTMENT TO THE DEPARTMENT.

21 (B) CIVILIAN EMPLOYEES.

22 EACH CIVILIAN EMPLOYEE SHALL REMAIN IN PROBATIONARY STATUS FOR THE
23 PERIOD REQUIRED UNDER TITLE 7, SUBTITLE 4 OF THE STATE PERSONNEL AND
24 PENSIONS ARTICLE.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from the first and second sentences of former Art. 88B, § 18.

27 Defined terms: "Civilian employee" § 2-101

28 "Department" § 2-101

29 "Police employee" § 2-101

30 2-404. PROMOTIONS.

31 (A) "OBSOLETE RANK" DEFINED.

32 IN THIS SECTION, "OBSOLETE RANK" MEANS A RANK DESIGNATED BY THE
33 SECRETARY TO WHICH NO FURTHER PROMOTIONS WILL BE MADE.

34 (B) SECRETARY TO MAKE PROMOTIONS.

35 THE SECRETARY SHALL MAKE ALL PROMOTIONS.

1 (C) POLICE EMPLOYEES -- IN GENERAL.

2 (1) PROMOTION TO A RANK, EXCEPT DEPUTY SECRETARY, SHALL BE
3 MADE IN THE MANNER REQUIRED BY RULE.

4 (2) FOR A NONCOMMISSIONED RANK THAT HAS FEWER THAN 25 POLICE
5 EMPLOYEES, THE SECRETARY BY RULE MAY DIRECT THAT IT IS UNNECESSARY TO
6 FILL THE NONCOMMISSIONED RANK FOR PURPOSES OF PROMOTION.

7 (3) (I) THIS PARAGRAPH DOES NOT APPLY TO A RANK THAT REQUIRES
8 TECHNICAL KNOWLEDGE.

9 (II) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A
10 POLICE EMPLOYEE MAY NOT BE APPOINTED OR PROMOTED TO A RANK UNLESS THE
11 POLICE EMPLOYEE:

12 1. IS BYPASSING AN OBSOLETE RANK AND CURRENTLY
13 FILLS THE RANK IMMEDIATELY BELOW THE OBSOLETE RANK; OR

14 2. HAS FILLED THE RANK IMMEDIATELY BELOW THE RANK
15 TO WHICH THE POLICE EMPLOYEE IS TO BE PROMOTED.

16 (D) SAME -- PROMOTION TO MAJOR OR LIEUTENANT COLONEL.

17 (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
18 SECRETARY MAY APPOINT WITHOUT EXAMINATION:

19 (I) A POLICE EMPLOYEE WHO HOLDS A COMMISSIONED RANK TO
20 THE RANK OF MAJOR; AND

21 (II) A POLICE EMPLOYEE WHO HOLDS A COMMISSIONED RANK OF
22 NOT LESS THAN CAPTAIN TO THE RANK OF LIEUTENANT COLONEL.

23 (2) A POLICE EMPLOYEE APPOINTED IN ACCORDANCE WITH THIS
24 SUBSECTION CONTINUES TO SERVE AT THE PLEASURE OF THE SECRETARY.

25 (3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ON
26 TERMINATION OF AN APPOINTMENT UNDER THIS SUBSECTION, THE POLICE
27 EMPLOYEE MAY:

28 (I) RETURN TO THE RANK HELD BEFORE THE APPOINTMENT; OR

29 (II) BE PROMOTED TO A HIGHER RANK TO WHICH THE POLICE
30 EMPLOYEE BECAME ELIGIBLE FOR PROMOTION DURING THE APPOINTMENT.

31 (E) SAME -- OBSOLETE RANK.

32 AN INCUMBENT POLICE EMPLOYEE IN AN OBSOLETE RANK REMAINS IN THAT
33 RANK UNTIL PROMOTED, DEMOTED, RETIRED, OR TERMINATED.

34 (F) CIVILIAN EMPLOYEES.

1 PROMOTIONS OF CIVILIAN EMPLOYEES SHALL BE MADE IN ACCORDANCE WITH
2 THE STATE PERSONNEL AND PENSIONS ARTICLE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 88B, §§ 19, 2(9), and the fourth sentence of §
5 23(a).

6 Defined terms: "Civilian employee" § 2-101

7 "Commissioned rank" § 2-101

8 "Noncommissioned rank" § 2-101

9 "Police employee" § 2-101

10 "Rank" § 2-101

11 "Rule" § 2-101

12 "Secretary" § 2-101

13 2-405. PAY RATES.

14 (A) SECRETARY TO ESTABLISH PAY PLAN.

15 (1) THE SECRETARY SHALL DEVELOP A PAY PLAN FOR POLICE
16 EMPLOYEES, STATE POLICE COMMUNICATIONS OPERATORS, AND STATE POLICE
17 COMMUNICATIONS SUPERVISORS THAT INCLUDES THE RANKS AND THE GRADES
18 WITHIN RANKS THAT THE SECRETARY CONSIDERS APPROPRIATE.

19 (2) THE PAY PLAN UNDER THIS SUBSECTION:

20 (I) IS SUBJECT TO APPROVAL BY THE SECRETARY OF BUDGET AND
21 MANAGEMENT; AND

22 (II) IS EFFECTIVE ON APPROVAL BY THE GOVERNOR ONLY TO THE
23 EXTENT THAT SUFFICIENT MONEY IS INCLUDED IN THE STATE BUDGET.

24 (B) PAY RATES GENERALLY.

25 EACH POLICE EMPLOYEE, STATE POLICE COMMUNICATIONS OPERATOR, AND
26 STATE POLICE COMMUNICATIONS SUPERVISOR IS ENTITLED TO RECEIVE THE PAY
27 RATE, INCLUDING ANY INCREMENT BASED ON LENGTH OF SERVICE, SET FORTH IN
28 THE PAY PLAN ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION.

29 (C) PAY INCREASES.

30 (1) EACH POLICE EMPLOYEE IS ENTITLED TO THE PAY RATE FOR THE
31 NEXT HIGHEST STEP WITHIN THE POLICE EMPLOYEE'S RANK ON:

32 (I) EACH JULY 1, IF THE POLICE EMPLOYEE WAS A POLICE
33 EMPLOYEE ON JULY 1, 1967; OR

34 (II) EACH ANNIVERSARY OF THE DATE OF EMPLOYMENT, FOR ALL
35 OTHER POLICE EMPLOYEES.

1 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
2 PARAGRAPH, ON PROMOTION A POLICE EMPLOYEE IS ENTITLED TO THE PAY
3 SPECIFIED FOR THE NEW RANK IN THE SAME STEP THAT THE POLICE EMPLOYEE
4 OCCUPIED BEFORE PROMOTION.

5 (II) IF THE STEP THAT THE POLICE EMPLOYEE OCCUPIED BEFORE
6 PROMOTION IS HIGHER THAN THAT HELD BY A POLICE EMPLOYEE WHO IS ALREADY
7 IN THE RANK AND HAS EQUAL OR HIGHER TOTAL SERVICE TIME, ON PROMOTION
8 THE POLICE EMPLOYEE IS ENTITLED ONLY TO THE PAY SPECIFIED FOR THE NEW
9 RANK IN THE NEXT LOWER STEP THAN THE POLICE EMPLOYEE OCCUPIED BEFORE
10 PROMOTION.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 88B, §§ 22(a) and 23(b) and the first and second
13 sentences of (a).

14 Throughout this section, references to a "pay rate" and a "pay plan" are
15 substituted for former references to a "salary" and a "salary plan" for
16 consistency with terminology used in the State Personnel and Pensions
17 Article. *See* Title 8, Subtitle 4 of the State Personnel and Pensions Article.

18 In subsection (b) of this section, the former phrase "[f]rom and after July 1,
19 1974" is deleted as obsolete.

20 Defined terms: "Grade" § 2-101

21 "Police employee" § 2-101

22 "Rank" § 2-101

23 "Secretary" § 2-101

24 2-406. EXPENSES OF EMPLOYEES.

25 (A) VOUCHERS FOR EXPENSES.

26 (1) THE SECRETARY MAY APPROVE VOUCHERS IN PAYMENT OF
27 EXPENSES INCURRED BY EMPLOYEES IN THE DISCHARGE OF THEIR DUTIES,
28 INCLUDING EXPENSES FOR LODGING AND SUBSISTENCE WHILE AN EMPLOYEE IS
29 AWAY FROM THE FACILITY TO WHICH THE EMPLOYEE IS REGULARLY ASSIGNED.

30 (2) THE VOUCHERS SHALL BE:

31 (I) AUDITED AND PAID IN ACCORDANCE WITH THE STATE BUDGET
32 IN THE MANNER REQUIRED BY LAW; AND

33 (II) SUBMITTED IN A MANNER CONSISTENT WITH THE PRACTICES
34 REQUIRED BY THE COMPTROLLER'S OFFICE.

35 (3) LODGING AND SUBSISTENCE PROVIDED TO EMPLOYEES AT
36 FACILITIES OF THE DEPARTMENT:

1 (I) ARE NOT EXPENSES WITHIN THE MEANING OF THIS SECTION;
2 AND

3 (II) MAY BE PROVIDED BY THE DEPARTMENT IN ACCORDANCE
4 WITH THE STATE BUDGET AND RULE OF THE SECRETARY.

5 (B) LEGAL EXPENSES OF POLICE EMPLOYEES.

6 (1) IN A CIVIL OR CRIMINAL CASE, OTHER THAN A DISCIPLINARY
7 PROCEEDING OR AN APPEAL FROM A DISCIPLINARY PROCEEDING, WHEN A POLICE
8 EMPLOYEE IS CHARGED WITH THE COMMISSION OF A WRONG AS THE RESULT OF AN
9 ACT DONE IN THE COURSE OF THE POLICE EMPLOYEE'S OFFICIAL DUTIES, THE
10 SECRETARY MAY PAY ANY PART OF THE LEGAL EXPENSES OF THE POLICE
11 EMPLOYEE IF:

12 (I) THE SECRETARY DETERMINES THAT PAYMENT IS IN THE BEST
13 INTERESTS OF THE DEPARTMENT, THE PUBLIC, AND THE POLICE EMPLOYEE; AND

14 (II) THE ATTORNEY GENERAL APPROVES THE PAYMENT.

15 (2) PAYMENT OF LEGAL EXPENSES UNDER THIS SUBSECTION MAY BE
16 MADE IN ACCORDANCE WITH THE STATE BUDGET OR FROM GENERAL OR
17 CONTINGENCY FUNDS OF THE DEPARTMENT.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 88B, § 22(b) and (d).

20 In subsection (a)(2)(i) and (3)(ii) of this section, the phrase "in accordance
21 with the State budget" is substituted for the former references to
22 "appropriations to the Department" and "to the extent permitted by
23 appropriation" for clarity and consistency with language used in this
24 subtitle and other revised articles of the Code. Similarly, in subsection
25 (b)(2) of this section, reference to payment "in accordance with the State
26 budget" is substituted for the former phrase "from any funds specifically
27 appropriated for that purpose" for clarity and consistency.

28 Defined terms: "Department" § 2-101

29 "Police employee" § 2-101

30 "Rule" § 2-101

31 "Secretary" § 2-101

32 2-407. UNIFORMS AND EQUIPMENT.

33 (A) IN GENERAL.

34 (1) THE DEPARTMENT SHALL PROVIDE UNIFORMS AND EQUIPMENT
35 NECESSARY FOR THE PERFORMANCE OF THE DUTIES OF EMPLOYEES IN
36 ACCORDANCE WITH THE STATE BUDGET.

1 (2) UNIFORMS AND EQUIPMENT SHALL BE PURCHASED BY THE
2 DEPARTMENT IN ACCORDANCE WITH DIVISION II OF THE STATE FINANCE AND
3 PROCUREMENT ARTICLE AND REMAIN THE PROPERTY OF THE STATE.

4 (B) OFF-DUTY USE OF POLICE VEHICLES.

5 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE SECRETARY
6 MAY GRANT PERMISSION TO OFF-DUTY POLICE EMPLOYEES TO USE POLICE
7 VEHICLES DURING OFF-DUTY HOURS IF, IN THE OPINION OF THE SECRETARY, THE
8 VEHICLES WILL NOT BE NEEDED BY ON-DUTY POLICE EMPLOYEES.

9 (2) ONLY THE POLICE EMPLOYEES TO WHOM PERMISSION HAS BEEN
10 GRANTED TO USE THE POLICE VEHICLES MAY OPERATE THE POLICE VEHICLES.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 88B, §§ 15(b)(15) and 22(c).

13 In subsection (b)(1) and (2) of this section, the defined term "police
14 employees" is substituted for the former references to "State Police
15 officers" and "officers" for consistency with terminology used throughout
16 this title.

17 Defined terms: "Department" § 2-101

18 "Police employee" § 2-101

19 "Secretary" § 2-101

20 2-408. OTHER COMPENSATION PROHIBITED.

21 (A) IN GENERAL.

22 EXCEPT AS ALLOWED BY THIS ARTICLE, TITLE 9 OR TITLE 10 OF THE LABOR AND
23 EMPLOYMENT ARTICLE, OR RULE, AN EMPLOYEE OF THE DEPARTMENT MAY NOT
24 RECEIVE MONEY OR ANY OTHER THING OF VALUE FOR SERVICES PERFORMED BY
25 THE EMPLOYEE AS AN EMPLOYEE OF THE DEPARTMENT OR OTHERWISE RESULTING
26 FROM EMPLOYMENT BY THE DEPARTMENT.

27 (B) ACCEPTANCE BY EMPLOYEE.

28 WHEN AN EMPLOYEE IS ALLOWED BY THE SECRETARY TO ACCEPT MONEY OR
29 ANY OTHER THING OF VALUE, THE MONEY OR OTHER THING OF VALUE SHALL BE
30 DELIVERED TO THE DEPARTMENT AND DISPOSED OF AS PROVIDED BY RULE.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 88B, § 22(e).

33 In subsection (a) of this section, the general reference to "this article" is
34 retained. The reference in the revision to "this article" is broader than the
35 former reference to "this article", which meant former Article 88B, because
36 this revised article includes provisions from other articles in addition to
37 Article 88B. No substantive change is intended.

1 Defined terms: "Department" § 2-101

2 "Rule" § 2-101

3 "Secretary" § 2-101

4 2-409. SICK LEAVE RESERVE.

5 (A) ESTABLISHED.

6 THERE IS A SICK LEAVE RESERVE.

7 (B) SECRETARY TO ADMINISTER.

8 THE SECRETARY SHALL ADMINISTER THE SICK LEAVE RESERVE.

9 (C) REGULATIONS ABOUT ELIGIBILITY.

10 THE SECRETARY SHALL ADOPT RULES AND REGULATIONS ABOUT THE
11 ELIGIBILITY OF POLICE EMPLOYEES TO WITHDRAW SICK LEAVE FROM THE SICK
12 LEAVE RESERVE INCLUDING:

13 (1) A REQUIREMENT THAT THE POLICE EMPLOYEE HAVE A LONG TERM
14 ILLNESS AND BE UNABLE TO WORK; AND

15 (2) THE LENGTH OF TIME FOR WHICH A POLICE EMPLOYEE MAY
16 RECEIVE SICK LEAVE.

17 (D) DONATIONS OF SICK LEAVE.

18 WITH THE APPROVAL OF THE SECRETARY, A POLICE EMPLOYEE MAY DONATE
19 UP TO 2 DAYS OF SICK LEAVE EACH YEAR TO THE SICK LEAVE RESERVE.

20 (E) TRANSFERS OF SICK LEAVE.

21 (1) THE SECRETARY MAY TRANSFER DAYS OF SICK LEAVE THAT HAVE
22 BEEN ACCUMULATED IN THE SICK LEAVE RESERVE TO A POLICE EMPLOYEE WHO:

23 (I) HAS A DOCUMENTED MEDICAL DISABILITY; AND

24 (II) HAS EXHAUSTED ALL FORMS OF LEAVE.

25 (2) THE SECRETARY MAY NOT TRANSFER SICK LEAVE UNDER THIS
26 SECTION TO A POLICE EMPLOYEE WHO HAS BEEN GRANTED DISABILITY
27 RETIREMENT BY THE BOARD OF TRUSTEES OF THE STATE RETIREMENT SYSTEMS
28 FOR USE AFTER THE FIRST DATE ON WHICH DISABILITY RETIREMENT MAY BECOME
29 EFFECTIVE.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 88B, § 23C.

32 Throughout subsection (c) of this section, the defined term "police
33 employee" is substituted for the former references to a "member" for

1 consistency with terminology used throughout this section.

2 Defined terms: "Police employee" § 2-101

3 "Rule" § 2-101

4 "Secretary" § 2-101

5 2-410. WORK-RELATED ADMINISTRATIVE LEAVE.

6 (A) AUTHORIZED.

7 THE SECRETARY MAY GRANT WORK-RELATED ADMINISTRATIVE LEAVE TO A
8 POLICE EMPLOYEE WHO IS TEMPORARILY DISABLED IN THE PERFORMANCE OF THE
9 POLICE EMPLOYEE'S WORK IF THE DISABILITY RESULTED FROM AN INJURY OR
10 ILLNESS SUSTAINED IN THE PERFORMANCE OF THE POLICE EMPLOYEE'S WORK.

11 (B) PERIOD OF LEAVE.

12 (1) THE WORK-RELATED ADMINISTRATIVE LEAVE REMAINS IN EFFECT
13 UNTIL THE POLICE EMPLOYEE IS RETURNED TO DUTY OR IS RETIRED BECAUSE OF
14 THE INJURY OR ILLNESS FROM WHICH THE DISABILITY RESULTED.

15 (2) HOWEVER, THE WORK-RELATED ADMINISTRATIVE LEAVE MAY NOT:

16 (I) EXCEED 2 YEARS; AND

17 (II) EXTEND BEYOND THE SECOND ANNIVERSARY OF THE DATE OF
18 THE INJURY OR ILLNESS.

19 (C) PAYMENT RATE; EFFECT ON OTHER BENEFITS.

20 (1) PAYMENT TO A POLICE EMPLOYEE ON WORK-RELATED
21 ADMINISTRATIVE LEAVE IS BASED ON TWO-THIRDS OF THE POLICE EMPLOYEE'S
22 REGULAR PAY.

23 (2) PAYMENT FOR WORK-RELATED ADMINISTRATIVE LEAVE IS A
24 SEPARATE BENEFIT ON ACCOUNT OF ACCIDENTAL DISABILITY AND IS NOT A
25 CONTINUATION OF SALARY.

26 (3) NOTWITHSTANDING THE REDUCED RATE AT WHICH A POLICE
27 EMPLOYEE IS PAID WHILE ON WORK-RELATED ADMINISTRATIVE LEAVE, THE
28 POLICE EMPLOYEE:

29 (I) CONTINUES SENIORITY AND LEAVE ACCRUALS BASED ON THE
30 POLICE EMPLOYEE'S REGULAR PAY; AND

31 (II) DOES NOT LOSE HEALTH CARE BENEFITS WITH THE SUBSIDY
32 ALLOWED IN TITLE 2, SUBTITLE 5 OF THE STATE PERSONNEL AND PENSIONS
33 ARTICLE SOLELY BECAUSE THE POLICE EMPLOYEE IS ON WORK-RELATED
34 ADMINISTRATIVE LEAVE.

1 (4) A POLICE EMPLOYEE MAY NOT RECEIVE TEMPORARY TOTAL
2 DISABILITY BENEFITS UNDER THE MARYLAND WORKERS' COMPENSATION ACT
3 WHILE THE POLICE EMPLOYEE IS RECEIVING PAYMENT UNDER THIS SECTION.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 88B, § 23A.

6 Throughout this section, the defined term "police employee" is substituted
7 for the former references to "law-enforcement officer[s]", "State Police
8 officer", and "officer" for consistency with terminology used throughout
9 this subtitle and this title.

10 In subsection (a) of this section, the former phrase "in the Department" is
11 deleted as implicit.

12 In subsection (b)(1) of this section, the reference to "the injury or illness
13 from which the disability resulted" is substituted for the former reference
14 to "those injuries" for clarity and consistency throughout this section.

15 Defined terms: "Police employee" § 2-101

16 "Secretary" § 2-101

17 2-411. MODIFIED WORK WEEK.

18 (A) AUTHORIZED.

19 IF AUTHORIZED BY THE SECRETARY, A POLICE EMPLOYEE OR A 40-HOUR
20 CIVILIAN EMPLOYEE MAY WORK AN ALTERNATIVE WORKDAY OF NOT MORE THAN 12
21 HOURS INSTEAD OF AN 8-HOUR WORKDAY.

22 (B) COMPENSATION; PERSONAL LEAVE.

23 (1) EMPLOYEES WHO PARTICIPATE IN THE ALTERNATIVE MODIFIED
24 WORKDAY PROGRAM ARE ENTITLED TO COMPENSATION IN ACCORDANCE WITH §
25 8-305 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

26 (2) PERSONAL LEAVE FOR THESE EMPLOYEES SHALL BE BASED ON AN
27 8-HOUR WORKDAY.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 88B, § 23B(b) and (c).

30 In subsection (a) of this section, the defined term "police employee" is
31 substituted for the former reference to a "law-enforcement employee" for
32 consistency with terminology used throughout this subtitle and this title.

33 Also in subsection (a) of this section, the former phrase "of the
34 Department" is deleted as unnecessary in light of the defined terms "police
35 employee" and "civilian employee".

36 Former Art. 88B, § 23B(a), which defined "nonexempt" as being entitled to

1 pay for overtime work under the federal Fair Labor Standards Act, is
2 deleted as unnecessary because the term was not used in the former law
3 and is not used in the revision.

4 Defined terms: "Civilian employee" § 2-101

5 "Department" § 2-101

6 "Police employee" § 2-101

7 "Secretary" § 2-101

8 2-412. POWERS OF POLICE EMPLOYEES.

9 (A) DEFINITIONS.

10 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

12 (2) "EMERGENCY" MEANS A SUDDEN OR UNEXPECTED HAPPENING OR
13 AN UNFORESEEN COMBINATION OF CIRCUMSTANCES THAT CALLS FOR IMMEDIATE
14 ACTION TO PROTECT HEALTH, SAFETY, WELFARE, OR PROPERTY FROM ACTUAL OR
15 THREATENED HARM OR FROM AN UNLAWFUL ACT.

16 (3) "MUNICIPAL CORPORATION" INCLUDES BALTIMORE CITY.

17 (B) POLICE POWERS.

18 (1) POLICE EMPLOYEES HAVE THROUGHOUT THE STATE THE SAME
19 POWERS, PRIVILEGES, IMMUNITIES, AND DEFENSES AS SHERIFFS, CONSTABLES,
20 POLICE OFFICERS, AND OTHER PEACE OFFICERS POSSESSED AT COMMON LAW AND
21 MAY NOW OR IN THE FUTURE EXERCISE WITHIN THEIR RESPECTIVE JURISDICTIONS.

22 (2) A POLICE EMPLOYEE MAY EXECUTE AN ARREST WARRANT IN ANY
23 PART OF THE STATE WITHOUT FURTHER ENDORSEMENT.

24 (C) AUTHORITY TO ACT WITHIN MUNICIPAL CORPORATIONS.

25 POLICE EMPLOYEES MAY NOT ACT WITHIN THE LIMITS OF A MUNICIPAL
26 CORPORATION THAT MAINTAINS A POLICE FORCE EXCEPT:

27 (1) WHEN IN PURSUIT OF A CRIMINAL OR SUSPECT;

28 (2) WHEN IN SEARCH OF A CRIMINAL OR SUSPECT WANTED FOR A
29 CRIME COMMITTED OUTSIDE OF THE LIMITS OF THE MUNICIPAL CORPORATION OR
30 WHEN INTERVIEWING OR SEEKING TO INTERVIEW A WITNESS OR SUPPOSED
31 WITNESS TO THE CRIME;

32 (3) WHEN A CRIME IS COMMITTED IN THE PRESENCE OF THE POLICE
33 EMPLOYEE, AND THE ARRESTED PARTY MUST BE IMMEDIATELY TRANSFERRED TO
34 THE CUSTODY OF THE LOCAL LAW ENFORCEMENT AGENCY;

35 (4) WHEN REQUESTED TO ACT BY THE CHIEF EXECUTIVE OFFICER OR
36 CHIEF POLICE OFFICER OF THE MUNICIPAL CORPORATION;

1 (5) WHEN ORDERED BY THE GOVERNOR TO ACT WITHIN THE MUNICIPAL
2 CORPORATION;

3 (6) WHEN ENFORCING THE MOTOR VEHICLE LAWS OF THE STATE,
4 EXCEPT IN BALTIMORE CITY;

5 (7) IN BALTIMORE CITY, ONLY WHEN ENFORCING TITLE 23 OF THE
6 TRANSPORTATION ARTICLE;

7 (8) IN ANY BUILDING OR PLACE WHEN ORDERED BY EITHER THE
8 PRESIDENT OF THE SENATE OR THE SPEAKER OF THE HOUSE OF DELEGATES TO
9 GUARD THE SAFETY OF LEGISLATORS OR THE INTEGRITY OF THE LEGISLATIVE
10 PROCESS;

11 (9) TO PROTECT THE SAFETY OF AN ELECTED STATE OFFICIAL;

12 (10) IN THE MUNICIPAL CORPORATIONS OF SOMERSET COUNTY;

13 (11) WHEN ENFORCING § 11-207 OF THE CRIMINAL LAW ARTICLE;

14 (12) (I) 1. WHEN PARTICIPATING IN A JOINT INVESTIGATION WITH
15 OFFICIALS FROM ANOTHER STATE, FEDERAL, OR LOCAL LAW ENFORCEMENT
16 AGENCY AT LEAST ONE OF WHICH HAS LOCAL JURISDICTION;

17 2. WHEN RENDERING ASSISTANCE TO A POLICE OFFICER;

18 3. WHEN ACTING AT THE REQUEST OF A LOCAL POLICE
19 OFFICER; OR

20 4. WHEN AN EMERGENCY EXISTS; AND

21 (II) WHEN ACTING IN ACCORDANCE WITH REGULATIONS ADOPTED
22 BY THE SECRETARY TO IMPLEMENT THIS ITEM; OR

23 (13) WHEN CONDUCTING INVESTIGATIONS RELATING TO OR OTHERWISE
24 ENFORCING § 7-302 OF THE CRIMINAL LAW ARTICLE.

25 (D) DETACHED SERVICE FOR FEDERAL GOVERNMENT.

26 A POLICE EMPLOYEE MAY NOT BE PLACED ON DETACHED SERVICE AND ACT
27 FOR A FEDERAL DEPARTMENT, AGENCY, OR COMMITTEE OUTSIDE OF THE STATE
28 WITHOUT THE WRITTEN APPROVAL OF THE GOVERNOR OR AS OTHERWISE PROVIDED
29 BY LAW.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 88B, § 4(a), (c), (d), (e), and the second sentence of
32 (b) and, except as it related to the Secretary and deputy secretary, the first
33 sentence.

34 Subsection (a)(3) of this section is revised as a definition of "municipal
35 corporation" rather than a definition of "incorporated municipality" to

1 conform to Art. XI-E of the Maryland Constitution.

2 In subsection (a)(3) of this section, the former reference to "territory within
3 the limits of an incorporated city or town within any county of this State"
4 is deleted as unnecessary. This is the common meaning of "municipal
5 corporation". The term "municipal corporation" is generally not defined in
6 this sense in revised articles of the Code.

7 Also in subsection (a)(3) of this section, the former phrase "as used in
8 subsection (b) of this section" is deleted as unnecessary and inaccurate.
9 The former term "incorporated municipality" was used in former Art. 88B,
10 § 4(c), not § 4(b).

11 Also in subsection (a)(3) of this section, the second sentence of former Art.
12 88B, § 4(e), which provided that the term "incorporated municipality" may
13 not be construed to include any other territory within the limits of any
14 county, is deleted as incomprehensible.

15 In subsection (b)(1) of this section, the former reference to "employees
16 designated by the Secretary as" police employees is deleted as surplusage.

17 In subsection (c)(7) of this section, the former parenthetical "(Vehicle Laws
18 - Inspection of Used Vehicles and Warnings for Defective Equipment)" is
19 deleted as unnecessary in the revision.

20 Defined terms: "Police employee" § 2-101

21 "Secretary" § 2-101

22 2-413. DEMOTIONS.

23 A POLICE EMPLOYEE MAY NOT BE DEMOTED OR OTHERWISE AFFECTED IN
24 RANK, PAY, OR STATUS EXCEPT FOR CAUSE.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from the third sentence of former Art. 88B, § 23(a).

27 The former phrase "as hereinbefore required" is deleted as surplusage. The
28 former phrase was a cross-reference to Art. 88B, § 20, which covered
29 demotions and was repealed by Ch. 735, Acts of 1984.

30 Defined term: "Police employee" § 2-101

31 2-414. END OF EMPLOYMENT -- IN GENERAL.

32 EMPLOYMENT OF AN EMPLOYEE OF THE DEPARTMENT ENDS ON THE DEATH,
33 RETIREMENT, RESIGNATION, OR TERMINATION OF THE EMPLOYEE.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from the first sentence of former Art. 88B, § 21.

36 The reference to an employee "of the Department" is added for clarity.

1 %The reference to "termination" of the employee is substituted for the
2 former reference to "discharge" to conform to terminology used in the State
3 Personnel and Pensions Article. *See* Title 11, Subtitle 3 of the State
4 Personnel and Pensions Article. Consequently, the reference that
5 employment "ends" is substituted for the former reference that
6 employment "shall terminate" for consistency.

7 Defined term: "Department" § 2-101

8 2-415. SAME -- RETIREMENT.

9 (A) IN GENERAL.

10 (1) RETIREMENT SHALL OCCUR IN ACCORDANCE WITH THE STATE
11 PERSONNEL AND PENSIONS ARTICLE.

12 (2) EXCEPT FOR THE SECRETARY, RETIREMENT IS MANDATORY AS
13 PROVIDED IN § 24-401(C) OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

14 (B) DISABILITY RETIREMENT.

15 (1) THE SECRETARY MAY APPLY FOR DISABILITY RETIREMENT ON
16 BEHALF OF A POLICE EMPLOYEE IN ACCORDANCE WITH § 29-103 OF THE STATE
17 PERSONNEL AND PENSIONS ARTICLE.

18 (2) THIS SUBSECTION DOES NOT PREVENT A POLICE EMPLOYEE FROM
19 EXERCISING THE INDIVIDUAL'S RIGHTS UNDER § 21-111 OF THE STATE PERSONNEL
20 AND PENSIONS ARTICLE.

21 (C) DISPOSITION OF HANDGUN ON RETIREMENT OF POLICE EMPLOYEE.

22 (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A POLICE
23 EMPLOYEE, ON RETIREMENT IN GOOD STANDING, MAY KEEP OR ACQUIRE THE
24 HANDGUN ISSUED BY THE STATE TO THAT POLICE EMPLOYEE IF:

25 (I) THE POLICE EMPLOYEE REIMBURSES THE DEPARTMENT FOR
26 THE REPLACEMENT VALUE OF THE HANDGUN; AND

27 (II) THE SECRETARY AUTHORIZES THE TRANSACTION.

28 (2) THE SECRETARY SHALL ADOPT REGULATIONS NECESSARY TO
29 CARRY OUT THIS SUBSECTION.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 88B, §§ 24A, 15(b)(16) and (d), and the second
32 sentence of § 21.

33 In subsection (a)(1) of this section, the former cross-reference to "§§ 31
34 through 37 of this article [former Art. 88B]" is deleted as obsolete.
35 Similarly, in subsection (a)(2) of this section, the former cross-reference to
36 "§ 31(a) of this article" is deleted. Former Art. 88B, §§ 31 to 37 are

1 transferred to the Session Laws. *See* General Revisor's Note to subtitle.

2 Subsection (a)(2) of this section cross-references § 24-401(c) of the State
3 Personnel and Pensions Article. According to 69 Op. Att'y Gen. 150 (1984),
4 SP § 24-401(c) is in direct conflict with the federal Age Discrimination in
5 Employment Act and, consequently, may not be enforced. The Public Safety
6 Article Review Committee calls this issue to the attention of the General
7 Assembly.

8 Subsection (b)(1) of this section is revised to cross-reference SP § 29-103
9 for clarity. Former Art. 88B, § 15(b)(16) and (d) were also revised in SP §
10 29-103. By cross-referencing that provision in this article, the potential
11 for inconsistent amendments to the two provisions is avoided.

12 Defined terms: "Department" § 2-101

13 "Police employee" § 2-101

14 "Secretary" § 2-101

15 2-416. SAME -- RESIGNATION.

16 RESIGNATION OF AN EMPLOYEE IS NOT VALID UNTIL ACCEPTED BY THE
17 SECRETARY, BUT THE SECRETARY MAY NOT WITHHOLD ACCEPTANCE UNLESS
18 PROCEEDINGS FOR TERMINATION ARE CONTEMPLATED OR PENDING.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from the third sentence of former Art. 88B, § 21.

21 The reference to proceedings for "termination" is substituted for the former
22 reference to proceedings for "discharge" to conform to terminology used in
23 the State Personnel and Pensions Article. *See* Title 11, Subtitle 3 of the
24 State Personnel and Pensions Article.

25 Defined term: "Secretary" § 2-101

26 2-417. SAME -- TERMINATION.

27 (A) IN GENERAL.

28 AN EMPLOYEE, OTHER THAN AN EMPLOYEE IN PROBATIONARY STATUS, MAY
29 BE TERMINATED FROM EMPLOYMENT ONLY IN ACCORDANCE WITH THE STATE
30 PERSONNEL AND PENSIONS ARTICLE.

31 (B) EMPLOYEES IN PROBATIONARY STATUS.

32 THE SECRETARY MAY TERMINATE THE EMPLOYMENT OF AN EMPLOYEE IN
33 PROBATIONARY STATUS FOR ANY REASON THAT THE SECRETARY CONSIDERS
34 SUFFICIENT.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from the third sentence of former Art. 88B, § 18 and the fourth

1 sentence of § 21.

2 In subsection (a) of this section, the reference to an "employee in
3 probationary status" is substituted for the former reference to a
4 "probationary employee" for consistency with subsection (b) of this section
5 and § 2-403 of this subtitle.

6 Also in subsection (a) of this section, the reference to an employee being
7 "terminated" from employment is substituted for the former reference to
8 being "discharged" to conform to terminology used in the State Personnel
9 and Pensions Article. *See* Title 11, Subtitle 3 of the State Personnel and
10 Pensions Article.

11 In subsection (b) of this section, the former phrase "in the Secretary's sole
12 discretion" is deleted as implicit in the power of the Secretary to terminate
13 the employment of a probationary employee.

14 Defined term: "Secretary" § 2-101

15 2-418. REAPPOINTMENTS.

16 (A) POLICE EMPLOYEES.

17 (1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPHS (2) AND (3) OF
18 THIS SUBSECTION, A POLICE EMPLOYEE WHO RESIGNS FROM THE DEPARTMENT FOR
19 ANY REASON MAY NOT BE REAPPOINTED.

20 (2) A POLICE EMPLOYEE WHO RESIGNS TO ENTER MILITARY SERVICE
21 MAY BE REAPPOINTED.

22 (3) BY RULE, THE SECRETARY MAY REAPPOINT A POLICE EMPLOYEE
23 WHO RESIGNED IN GOOD STANDING IF THE INDIVIDUAL MEETS THE REQUIREMENTS
24 THEN APPLICABLE FOR INITIAL APPOINTMENT.

25 (4) AN INDIVIDUAL MAY NOT BE REAPPOINTED TO A RANK HIGHER
26 THAN THE RANK THAT THE INDIVIDUAL PREVIOUSLY HELD AS A POLICE EMPLOYEE.

27 (B) TERMINATED EMPLOYEES.

28 AN EMPLOYEE WHO IS TERMINATED FROM THE DEPARTMENT MAY NOT BE
29 REAPPOINTED.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from the second, third, and fourth sentences of former Art. 88B, §
32 17(b).

33 In subsection (a)(3) and (4) of this section, the reference to an "individual"
34 is substituted for the former reference to a "person" because only human
35 beings, and not the other entities included in the defined term "person",
36 are police employees.

1 %In subsection (b) of this section, the reference to an employee being
2 "terminated" is substituted for the former reference to an employee being
3 "discharged" for consistency throughout this subtitle.

4 Defined terms: "Department" § 2-101

5 "Police employee" § 2-101

6 "Rule" § 2-101

7 "Secretary" § 2-101

8 GENERAL REVISOR'S NOTE TO SUBTITLE:

9 Former Art. 88B, §§ 31, 32, 34, 34A, 34B, 35, 36, 36A, and 37, which covered
10 pensions for employees of the Department of State Police who elected not to become
11 members of the State Police Retirement System, are transferred to the Session Laws
12 because of their limited and diminishing applicability. The State Police Retirement
13 System is covered under Title 24 of the State Personnel and Pensions Article. Today
14 police employees are members of the State Police Retirement System and civilian
15 employees are members of the Employees' Retirement System or the Employees'
16 Pension System.

17 SUBTITLE 5. STATEWIDE DNA DATA BASE SYSTEM.

18 2-501. DEFINITIONS.

19 (A) IN GENERAL.

20 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

21 REVISOR'S NOTE: This subsection formerly was Art. 88B, § 12A(a)(1).

22 In this subsection and throughout this subtitle, the reference to this
23 "subtitle" is substituted for the former reference to this "section" to reflect
24 the reorganization of former § 12A as a subtitle in this revision.

25 No other changes are made.

26 (B) CODIS.

27 "CODIS" MEANS THE FEDERAL BUREAU OF INVESTIGATION'S "COMBINED DNA
28 INDEX SYSTEM" THAT ALLOWS THE STORAGE AND EXCHANGE OF DNA RECORDS
29 SUBMITTED BY STATE AND LOCAL FORENSIC DNA LABORATORIES.

30 REVISOR'S NOTE: This subsection formerly was Art. 88B, § 12A(a)(2).

31 No changes are made.

32 Defined terms: "DNA" § 2-501

33 "DNA records" § 2-501

34 "State" § 1-101

1 (C) CRIME LABORATORY.

2 "CRIME LABORATORY" MEANS THE CRIME LABORATORY DIVISION OF THE
3 DEPARTMENT.

4 REVISOR'S NOTE: This subsection formerly was Art. 88B, § 12A(a)(3).

5 The only change is in style.

6 Defined term: "Department" § 2-101

7 (D) CRIME OF VIOLENCE.

8 "CRIME OF VIOLENCE" MEANS:

9 (1) SEXUAL ABUSE OF A MINOR UNDER § 3-602 OF THE CRIMINAL LAW
10 ARTICLE;

11 (2) RAPE IN ANY DEGREE;

12 (3) A SEXUAL OFFENSE IN THE FIRST, SECOND, OR THIRD DEGREE;

13 (4) MURDER;

14 (5) ROBBERY UNDER § 3-402 OR § 3-403 OF THE CRIMINAL LAW ARTICLE;

15 (6) FIRST DEGREE ASSAULT; OR

16 (7) ATTEMPTS TO COMMIT THE OFFENSES LISTED IN ITEMS (1)
17 THROUGH (6) OF THIS SUBSECTION.

18 REVISOR'S NOTE: This subsection is new language derived without
19 substantive change from former Art. 88B, § 12A(a)(8).

20 The Public Safety Article Review Committee decided to use the term
21 "crime of violence" instead of the former term "qualifying crime of violence"
22 because the Committee believed the former term was misleading and not
23 appropriately descriptive.

24 (E) DIRECTOR.

25 "DIRECTOR" MEANS THE DIRECTOR OF THE CRIME LABORATORY OR THE
26 DIRECTOR'S DESIGNEE.

27 REVISOR'S NOTE: This subsection formerly was Art. 88B, § 12A(a)(4).

28 No changes are made.

29 Defined term: "Crime Laboratory" § 2-501

30 (F) DNA.

1 "DNA" MEANS DEOXYRIBONUCLEIC ACID.

2 REVISOR'S NOTE: This subsection formerly was Art. 88B, § 12A(a)(5).

3 No changes are made.

4 (G) DNA RECORD.

5 (1) "DNA RECORD" MEANS DNA INFORMATION STORED IN CODIS OR THE
6 STATEWIDE DNA DATA BASE SYSTEM.

7 (2) "DNA RECORD" INCLUDES THE INFORMATION COMMONLY
8 REFERRED TO AS A DNA PROFILE.

9 REVISOR'S NOTE: This subsection is new language derived without
10 substantive change from former Art. 88B, § 12A(a)(6).

11 Defined terms: "CODIS" § 2-501

12 "DNA" § 2-501

13 "Statewide DNA data base system" § 2-501

14 (H) DNA SAMPLE.

15 "DNA SAMPLE" MEANS A BODY FLUID OR TISSUE SAMPLE THAT IS:

16 (1) PROVIDED BY AN INDIVIDUAL WHO IS CONVICTED OF A CRIME OF
17 VIOLENCE AS DEFINED IN THIS SECTION; OR

18 (2) SUBMITTED TO THE STATEWIDE DNA DATA BASE SYSTEM FOR
19 ANALYSIS AS PART OF A CRIMINAL INVESTIGATION.

20 REVISOR'S NOTE: This subsection is new language derived without
21 substantive change from former Art. 88B, § 12A(a)(7).

22 In item (1) of this subsection, the reference to an "individual" is substituted
23 for the former reference to a "person" because only an individual, and not
24 the other entities included in the defined term "person", can provide a
25 DNA sample.

26 Defined terms: "Crime of violence" § 2-501

27 "Statewide DNA data base system" § 2-501

28 (I) STATEWIDE DNA DATA BASE SYSTEM.

29 "STATEWIDE DNA DATA BASE SYSTEM" MEANS THE DNA RECORD SYSTEM
30 ADMINISTERED BY THE DEPARTMENT FOR IDENTIFICATION PURPOSES.

31 REVISOR'S NOTE: This subsection formerly was Art. 88B, § 12A(a)(9).

32 The only changes are in style.

1 Defined terms: "Department" § 2-101

2 "DNA record" § 2-501

3 (J) STATEWIDE DNA REPOSITORY.

4 "STATEWIDE DNA REPOSITORY" MEANS THE STATE REPOSITORY OF DNA
5 SAMPLES COLLECTED UNDER THIS SUBTITLE.

6 REVISOR'S NOTE: This subsection formerly was Art. 88B, § 12A(a)(10).

7 The only change is in style.

8 Defined term: "DNA sample" § 2-501

9 2-502. STATEWIDE DNA DATA BASE SYSTEM.

10 (A) ESTABLISHED.

11 THERE IS A STATEWIDE DNA DATA BASE SYSTEM IN THE CRIME LABORATORY.

12 (B) PURPOSE.

13 THE STATEWIDE DNA DATA BASE SYSTEM IS THE CENTRAL REPOSITORY FOR
14 ALL DNA TESTING INFORMATION AS PROVIDED IN THIS SUBTITLE.

15 (C) DUTIES OF DIRECTOR.

16 THE DIRECTOR SHALL:

17 (1) ADMINISTER AND MANAGE THE STATEWIDE DNA DATA BASE
18 SYSTEM;

19 (2) CONSULT WITH THE SECRETARY ON THE ADOPTION OF
20 APPROPRIATE REGULATIONS FOR PROTOCOLS AND OPERATIONS OF THE STATEWIDE
21 DNA DATA BASE SYSTEM;

22 (3) ENSURE COMPATIBILITY WITH FEDERAL BUREAU OF
23 INVESTIGATION AND CODIS REQUIREMENTS, INCLUDING THE USE OF COMPARABLE
24 TEST PROCEDURES, QUALITY ASSURANCE, LABORATORY EQUIPMENT, AND
25 COMPUTER SOFTWARE; AND

26 (4) ENSURE THE SECURITY AND CONFIDENTIALITY OF ALL RECORDS IN
27 THE STATEWIDE DNA DATA BASE SYSTEM.

28 (D) DUTIES OF CRIME LABORATORY.

29 THE CRIME LABORATORY SHALL:

30 (1) RECEIVE DNA SAMPLES FOR ANALYSIS, CLASSIFICATION, AND
31 STORAGE;

1 (2) FILE THE DNA RECORD OF IDENTIFICATION CHARACTERISTIC
2 PROFILES OF DNA SAMPLES SUBMITTED TO THE CRIME LABORATORY; AND

3 (3) MAKE INFORMATION THAT RELATES TO DNA SAMPLES AND DNA
4 RECORDS AVAILABLE TO OTHER AGENCIES AND INDIVIDUALS AS AUTHORIZED BY
5 THIS SUBTITLE.

6 (E) CONTRACT WITH DNA LABORATORY.

7 THE DIRECTOR MAY CONTRACT WITH A QUALIFIED DNA LABORATORY TO
8 COMPLETE DNA TYPING ANALYSES IF THE LABORATORY MEETS THE GUIDELINES
9 ESTABLISHED BY THE DIRECTOR.

10 (F) RECORD RETENTION.

11 SUBJECT TO § 2-511 OF THIS SUBTITLE, RECORDS OF TESTING SHALL BE
12 PERMANENTLY RETAINED ON FILE AT THE CRIME LABORATORY.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 88B, § 12A(b), (l), and (k)(4).

15 Defined terms: "CODIS" § 2-501

16 "Crime Laboratory" § 2-501

17 "Director" § 2-501

18 "DNA" § 2-501

19 "DNA record" § 2-501

20 "DNA sample" § 2-501

21 "Secretary" § 2-101

22 "Statewide DNA data base system" § 2-501

23 2-503. REQUIRED REGULATIONS.

24 (A) IN GENERAL.

25 AFTER CONSULTING WITH THE DIRECTOR, THE SECRETARY SHALL ADOPT
26 APPROPRIATE REGULATIONS:

27 (1) FOR PROTOCOLS AND OPERATIONS OF THE STATEWIDE DNA DATA
28 BASE SYSTEM;

29 (2) TO GOVERN THE METHODS USED TO OBTAIN INFORMATION FROM
30 THE STATEWIDE DNA DATA BASE SYSTEM AND CODIS, INCLUDING PROCEDURES TO
31 VERIFY THE IDENTITY AND AUTHORITY OF THE INDIVIDUAL OR AGENCY THAT
32 REQUESTS THE INFORMATION; AND

33 (3) TO GOVERN THE PROCEDURES USED:

34 (I) TO COLLECT, SUBMIT, IDENTIFY, ANALYZE, STORE, AND
35 DISPOSE OF DNA SAMPLES; AND

1 (II) TO ALLOW ACCESS TO AND DISSEMINATION OF TYPING
2 RESULTS AND PERSONAL IDENTIFICATION INFORMATION OF DNA SAMPLES THAT
3 ARE SUBMITTED UNDER THIS SUBTITLE.

4 (B) QUALITY ASSURANCE GUIDELINES.

5 EACH PROCEDURE ADOPTED BY THE DIRECTOR SHALL INCLUDE QUALITY
6 ASSURANCE GUIDELINES TO ENSURE THAT DNA RECORDS MEET STANDARDS AND
7 AUDIT REQUIREMENTS FOR LABORATORIES THAT SUBMIT DNA RECORDS FOR
8 INCLUSION IN THE STATEWIDE DNA DATA BASE SYSTEM AND CODIS.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 88B, § 12A(b)(4), (k)(1) and (3)(i), and (m)(3).

11 Defined terms: "CODIS" § 2-501

12 "Director" § 2-501

13 "DNA" § 2-501

14 "DNA record" § 2-501

15 "DNA sample" § 2-501

16 "Secretary" § 2-101

17 "Statewide DNA data base system" § 2-501

18 2-504. COLLECTION OF DNA SAMPLES.

19 (A) IN GENERAL.

20 (1) IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER THIS
21 SUBTITLE, AN INDIVIDUAL WHO IS CONVICTED OF A CRIME OF VIOLENCE, AS
22 DEFINED IN § 2-501 OF THIS SUBTITLE, SHALL:

23 (I) HAVE A DNA SAMPLE COLLECTED ON INTAKE TO A
24 CORRECTIONAL FACILITY, IF THE INDIVIDUAL IS SENTENCED TO A TERM OF
25 IMPRISONMENT; OR

26 (II) PROVIDE A DNA SAMPLE AS A CONDITION OF SENTENCE OR
27 PROBATION, IF THE INDIVIDUAL IS NOT SENTENCED TO A TERM OF IMPRISONMENT.

28 (2) AN INDIVIDUAL WHO WAS CONVICTED OF A CRIME OF VIOLENCE, AS
29 DEFINED IN § 2-501 OF THIS SUBTITLE, BEFORE OCTOBER 1, 1999, AND WHO REMAINS
30 CONFINED IN A CORRECTIONAL FACILITY ON OR AFTER OCTOBER 1, 1999, SHALL
31 SUBMIT A DNA SAMPLE TO THE DEPARTMENT.

32 (B) PLACE OF COLLECTION.

33 IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER THIS SUBTITLE, EACH
34 DNA SAMPLE REQUIRED TO BE COLLECTED UNDER THIS SECTION SHALL BE
35 COLLECTED:

36 (1) AT THE CORRECTIONAL FACILITY WHERE THE INDIVIDUAL IS
37 CONFINED, IF THE INDIVIDUAL IS CONFINED IN A CORRECTIONAL FACILITY ON OR

1 AFTER OCTOBER 1, 1999 OR IS SENTENCED TO A TERM OF IMPRISONMENT ON OR
2 AFTER OCTOBER 1, 1999; OR

3 (2) AT A FACILITY SPECIFIED BY THE DIRECTOR, IF THE INDIVIDUAL IS
4 NOT SENTENCED TO A TERM OF IMPRISONMENT.

5 (C) AUTHORIZED COLLECTORS.

6 EACH DNA SAMPLE SHALL BE COLLECTED BY:

7 (1) A CORRECTIONAL HEALTH NURSE TECHNICIAN;

8 (2) A PHYSICIAN;

9 (3) A REGISTERED NURSE;

10 (4) A LICENSED PRACTICAL NURSE;

11 (5) A LABORATORY TECHNICIAN; OR

12 (6) A PHLEBOTOMIST.

13 (D) SECOND DNA SAMPLE.

14 A SECOND DNA SAMPLE SHALL BE TAKEN IF ORDERED BY THE COURT FOR
15 GOOD CAUSE SHOWN.

16 (E) FAILURE TO PROVIDE DNA SAMPLE.

17 FAILURE OF AN INDIVIDUAL WHO IS NOT SENTENCED TO A TERM OF
18 IMPRISONMENT TO PROVIDE A DNA SAMPLE WITHIN 90 DAYS AFTER NOTICE BY THE
19 DIRECTOR IS A VIOLATION OF PROBATION.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 88B, § 12A(c), (d), (e), (f), (i), and (j).

22 Throughout this section, the references to an "individual" are substituted
23 for the former references to a "person" because only an individual, and not
24 the other entities included in the defined term "person", can be convicted of
25 a crime of violence, as defined in this subtitle.

26 In the introductory language of subsection (a)(1) and the introductory
27 language of subsection (b) of this section, the former phrases "adopted by
28 the Secretary" and "after consultation with the Director", which modified
29 "regulations", are deleted as unnecessary in light of § 2-503 of this
30 subtitle, which describes the process for adopting regulations under this
31 subtitle.

32 In subsection (a)(1)(i) of this section, the phrase "if the individual is
33 sentenced to a term of imprisonment" is added for clarity.

1 % Also in subsection (a)(1)(i) of this section, the reference to a "correctional
2 facility" is substituted for the former reference to a "prison or detention
3 facility" for consistency with terminology used in the Correctional Services
4 Article. *See* the General Revisor's Note to that article. Similarly, in
5 subsection (b)(1) of this section, the reference to a "correctional facility" is
6 substituted for the former reference to a "place of incarceration".

7 In subsections (a)(2) and (b)(1) of this section, the phrase "confined in a
8 correctional facility" is substituted for the former word "incarcerated" for
9 consistency with terminology used in the Correctional Services Article. *See*
10 General Revisor's Note to that article.

11 The Public Safety Article Review Committee notes, for consideration by the
12 General Assembly, that subsection (e) of this section provides only for the
13 situation in which an individual who is not sentenced to a term of
14 imprisonment is placed on probation. A sentence may be imposed and
15 suspended without probation.

16 Defined terms: "Department" § 2-101

17 "Director" § 2-501

18 "DNA sample" § 2-501

19 "Crime of violence" § 2-501

20 2-505. PURPOSES OF TESTING DNA SAMPLES.

21 (A) IN GENERAL.

22 TO THE EXTENT FISCAL RESOURCES ARE AVAILABLE, DNA SAMPLES SHALL BE
23 TESTED:

24 (1) TO ANALYZE AND TYPE THE GENETIC MARKERS CONTAINED IN OR
25 DERIVED FROM THE DNA SAMPLES;

26 (2) AS PART OF AN OFFICIAL INVESTIGATION INTO A CRIME;

27 (3) TO HELP IDENTIFY HUMAN REMAINS;

28 (4) TO HELP IDENTIFY MISSING INDIVIDUALS; AND

29 (5) FOR RESEARCH AND ADMINISTRATIVE PURPOSES, INCLUDING:

30 (I) DEVELOPMENT OF A POPULATION DATA BASE AFTER
31 PERSONAL IDENTIFYING INFORMATION IS REMOVED;

32 (II) SUPPORT OF IDENTIFICATION RESEARCH AND PROTOCOL
33 DEVELOPMENT OF FORENSIC DNA ANALYSIS METHODS; AND

34 (III) QUALITY CONTROL.

35 (B) LIMITATIONS ON DNA RECORDS.

1 (1) ONLY DNA RECORDS THAT DIRECTLY RELATE TO THE
2 IDENTIFICATION OF INDIVIDUALS SHALL BE COLLECTED AND STORED.

3 (2) DNA RECORDS MAY NOT BE USED FOR ANY PURPOSES OTHER THAN
4 THOSE SPECIFIED IN THIS SUBTITLE.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 88B, § 12A(g).

7 In the introductory language of subsection (a) of this section, the former
8 phrase "for the following purposes" is deleted as implicit.

9 In subsection (a)(4) of this section, the reference to missing "individuals" is
10 substituted for the former reference to missing "persons" because only an
11 individual, and not the other entities included in the defined term
12 "person", would be considered "missing" in this context.

13 In subsection (a)(5)(iii) of this section, the former reference to quality
14 control "purposes" is deleted as redundant.

15 Defined terms: "DNA" § 2-501

16 "DNA record" § 2-501

17 "DNA sample" § 2-501

18 2-506. STORAGE OF DNA RECORDS AND DNA SAMPLES.

19 (A) DNA RECORDS.

20 EACH DNA RECORD OF IDENTIFICATION CHARACTERISTICS THAT RESULTS
21 FROM DNA TESTING SHALL BE STORED AND MAINTAINED BY THE CRIME
22 LABORATORY IN THE STATEWIDE DNA DATA BASE SYSTEM.

23 (B) DNA SAMPLES.

24 EACH DNA SAMPLE SHALL BE STORED SECURELY AND MAINTAINED BY THE
25 CRIME LABORATORY IN THE STATEWIDE DNA REPOSITORY.

26 (C) TYPING RESULTS.

27 TYPING RESULTS SHALL BE STORED SECURELY IN THE STATEWIDE DNA DATA
28 BASE SYSTEM.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 88B, § 12A(h) and (k)(2).

31 Defined terms: "Crime Laboratory" § 2-501

32 "DNA" § 2-501

33 "DNA record" § 2-501

34 "DNA sample" § 2-501

35 "Statewide DNA data base system" § 2-501

36 "Statewide DNA repository" § 2-501

1 2-507. PROFICIENCY TESTING.

2 AT REGULAR INTERVALS NOT EXCEEDING 180 DAYS, THE CRIME LABORATORY
3 AND EACH ANALYST WHO PERFORMS DNA ANALYSES AT THE CRIME LABORATORY
4 SHALL UNDERGO EXTERNAL PROFICIENCY TESTING, INCLUDING AT LEAST ONE
5 EXTERNAL BLIND TEST, BY A DNA PROFICIENCY TESTING PROGRAM THAT MEETS
6 THE STANDARDS ISSUED UNDER:

7 (1) § 1003 OF THE FEDERAL DNA IDENTIFICATION ACT OF 1994 (42 U.S.C. §
8 14131); OR

9 (2) THE GUIDELINES FOR A QUALITY ASSURANCE PROGRAM FOR DNA
10 ANALYSIS, KNOWN AS THE "TWGDAM" GUIDELINES.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 88B, § 12A(k)(3)(ii).

13 In item (1) of this section, the parenthetical reference to "42 U.S.C. §
14 14131" is added for clarity.

15 Defined terms: "Crime Laboratory" § 2-501

16 "DNA" § 2-501

17 2-508. AVAILABILITY OF DNA PROFILE.

18 (A) IN GENERAL.

19 (1) ON WRITTEN OR ELECTRONIC REQUEST AFTER VERIFICATION BY
20 THE DIRECTOR THAT A MATCH HAS BEEN MADE IN THE POPULATION DATA BASE,
21 THE TYPING RESULTS AND PERSONAL IDENTIFICATION INFORMATION OF THE DNA
22 PROFILE OF AN INDIVIDUAL IN THE STATEWIDE DNA DATA BASE SYSTEM MAY BE
23 MADE AVAILABLE TO:

24 (I) FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT AGENCIES;

25 (II) CRIME LABORATORIES THAT HAVE BEEN APPROVED BY THE
26 DIRECTOR AND THAT SERVE FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT
27 AGENCIES;

28 (III) A STATE'S ATTORNEY'S OFFICE OR OTHER PROSECUTORIAL
29 OFFICE; AND

30 (IV) A PERSON PARTICIPATING IN A JUDICIAL PROCEEDING IN
31 WHICH THE DATA BASE INFORMATION MAY BE OFFERED AS EVIDENCE.

32 (2) A REQUEST FOR DNA INFORMATION UNDER PARAGRAPH (1) OF THIS
33 SUBSECTION MUST BE IN FURTHERANCE OF A PURPOSE SET FORTH IN § 2-505 OF
34 THIS SUBTITLE.

35 (B) AVAILABILITY TO DEFENDANT.

1 (1) THE TYPING RESULTS AND PERSONAL IDENTIFICATION
2 INFORMATION OF THE DNA PROFILE OF AN INDIVIDUAL IN THE STATEWIDE DNA
3 DATA BASE SYSTEM SHALL BE MADE AVAILABLE TO A DEFENDANT OR DEFENDANT'S
4 COUNSEL ON WRITTEN ORDER OF THE COURT IN WHICH THE CASE IS PENDING.

5 (2) A SEARCH OF THE DATA BASE TO DETERMINE THE EXISTENCE OF A
6 MATCH TO DNA OBTAINED FROM CRIME SCENE EVIDENCE TAKEN IN RELATION TO
7 THE CRIME FOR WHICH A DEFENDANT IS CHARGED SHALL BE CONDUCTED IF:

8 (I) THE DEFENDANT REQUESTS THE SEARCH; AND

9 (II) A COURT ISSUES A WRITTEN ORDER FOR THE SEARCH.

10 (3) THIS SUBTITLE DOES NOT LIMIT A COURT FROM ORDERING
11 DISCOVERY OF A DNA RECORD OR OTHER RELATED MATERIAL IN A CRIMINAL CASE.

12 (4) THE DIRECTOR SHALL MAINTAIN A FILE OF ALL ORDERS ISSUED
13 UNDER THIS SUBSECTION.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 88B, § 12A(m)(1) and (2).

16 Defined terms: "Director" § 2-501

17 "DNA" § 2-501

18 "DNA record" § 2-501

19 "Person" § 1-101

20 "Statewide DNA data base system" § 2-501

21 2-509. POPULATION DATA BASE.

22 (A) CREATION BY DIRECTOR.

23 THE DIRECTOR SHALL CREATE A POPULATION DATA BASE COMPRISED OF DNA
24 SAMPLES COLLECTED UNDER THIS SUBTITLE.

25 (B) REMOVAL OF PERSONAL IDENTIFIERS.

26 ALL PERSONAL IDENTIFIERS SHALL BE REMOVED BEFORE INFORMATION IS
27 ENTERED INTO THE POPULATION DATA BASE.

28 (C) AVAILABILITY OF INFORMATION.

29 (1) NOTHING SHALL PROHIBIT THE SHARING OR DISSEMINATING OF
30 POPULATION DATA BASE INFORMATION WITH:

31 (I) FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT AGENCIES;

32 (II) CRIME LABORATORIES THAT HAVE BEEN APPROVED BY THE
33 DIRECTOR AND THAT SERVE FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT
34 AGENCIES;

1 (III) A STATE'S ATTORNEY'S OFFICE; OR

2 (IV) A THIRD PARTY THAT THE DIRECTOR CONSIDERS NECESSARY
3 TO ASSIST THE CRIME LABORATORY WITH STATISTICAL ANALYSES OF THE
4 POPULATION DATA BASE.

5 (2) THE POPULATION DATA BASE MAY BE MADE AVAILABLE TO AND
6 SEARCHED BY ANY AGENCY THAT PARTICIPATES IN CODIS.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 88B, § 12A(m)(4).

9 The Public Safety Article Review Committee notes, for consideration by the
10 General Assembly, that subsection (c)(1)(iii) of this section provides for
11 sharing of information with a State's Attorney's office but not with other
12 prosecutorial officers such as the U.S. Attorney's office. *See, e.g.*, §
13 2-508(a)(1)(iii) of this subtitle.

14 Defined terms: "CODIS" § 2-501

15 "Crime Laboratory" § 2-501

16 "Director" § 2-501

17 "DNA sample" § 2-501

18 2-510. USE OF MATCH AS EVIDENCE.

19 A MATCH OBTAINED BETWEEN AN EVIDENCE SAMPLE AND A DATA BASE ENTRY
20 MAY ONLY BE USED AS PROBABLE CAUSE TO OBTAIN A BLOOD SAMPLE FROM THE
21 SUBJECT AND IS NOT ADMISSIBLE AT TRIAL UNLESS CONFIRMED BY ADDITIONAL
22 TESTING.

23 REVISOR'S NOTE: This section formerly was Art. 88B, § 12A(n).

24 The only change is in style.

25 2-511. EXPUNGEMENT OF DNA INFORMATION.

26 (A) IN GENERAL.

27 AN INDIVIDUAL WHOSE DNA RECORD OR PROFILE IS INCLUDED IN THE
28 STATEWIDE DNA DATA BASE SYSTEM AND WHOSE DNA SAMPLE IS STORED IN THE
29 STATEWIDE DNA REPOSITORY MAY REQUEST THAT INFORMATION BE EXPUNGED ON
30 THE GROUNDS THAT THE CONVICTION THAT RESULTED IN THE INCLUSION MEETS
31 THE EXPUNGEMENT CRITERIA SPECIFIED IN § 10-105 OR § 10-106 OF THE CRIMINAL
32 PROCEDURE ARTICLE.

33 (B) PROCEEDINGS.

34 EXPUNGEMENT PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH §
35 10-105 OR § 10-106 OF THE CRIMINAL PROCEDURE ARTICLE.

36 (C) PURGE OF DNA INFORMATION.

1 ON RECEIPT OF AN ORDER OF EXPUNGEMENT, THE DIRECTOR SHALL PURGE
2 ANY DNA RECORD, DNA SAMPLE, OR OTHER IDENTIFIABLE INFORMATION COVERED
3 BY THE ORDER FROM THE STATEWIDE DNA DATA BASE SYSTEM AND THE STATEWIDE
4 DNA REPOSITORY.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 88B, § 12A(o).

7 In subsection (a) of this section, the reference to an "individual" is
8 substituted for the former reference to a "person" because only an
9 individual, and not the other entities included in the defined term
10 "person", can give a DNA sample.

11 Defined terms: "Director" § 2-501

12 "DNA record" § 2-501

13 "DNA sample" § 2-501

14 "Statewide DNA data base system" § 2-501

15 "Statewide DNA repository" § 2-501

16 2-512. PROHIBITED ACTS; PENALTY.

17 (A) DISCLOSURE OF DNA INFORMATION TO UNAUTHORIZED PERSONS
18 PROHIBITED.

19 A PERSON WHO, BY VIRTUE OF EMPLOYMENT OR OFFICIAL POSITION, HAS
20 POSSESSION OF OR ACCESS TO INDIVIDUALLY IDENTIFIABLE DNA INFORMATION
21 CONTAINED IN THE STATEWIDE DNA DATA BASE SYSTEM OR STATEWIDE DNA
22 REPOSITORY MAY NOT WILLFULLY DISCLOSE THE INFORMATION IN ANY MANNER TO
23 A PERSON OR AGENCY NOT ENTITLED TO RECEIVE THE INFORMATION.

24 (B) OBTAINING DNA INFORMATION WITHOUT AUTHORIZATION PROHIBITED.

25 A PERSON MAY NOT, WITHOUT AUTHORIZATION, WILLFULLY OBTAIN
26 INDIVIDUALLY IDENTIFIABLE DNA INFORMATION FROM THE STATEWIDE DNA DATA
27 BASE SYSTEM OR STATEWIDE DNA REPOSITORY.

28 (C) PENALTY.

29 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
30 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE
31 NOT EXCEEDING \$1,000 OR BOTH.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 88B, § 12A(p).

34 Defined terms: "DNA" § 2-501

35 "Person" § 1-101

36 "Statewide DNA data base system" § 2-501

37 "Statewide DNA repository" § 2-501

1 SUBTITLE 6. LOCAL DIVISION.

2 2-601. LOCAL DIVISION ESTABLISHED.

3 (A) IN GENERAL.

4 THERE IS A LOCAL DIVISION IN THE DEPARTMENT.

5 (B) RESOURCES PROVIDED BY DEPARTMENT.

6 THE DEPARTMENT MAY HAVE AND PROVIDE THE EMPLOYEES, BUILDINGS,
7 EQUIPMENT, FACILITIES, AND OTHER OPERATING MATERIALS FOR THE LOCAL
8 DIVISION AS PROVIDED IN THE STATE BUDGET.

9 (C) LOCAL DIVISION EMPLOYEES.

10 THE EMPLOYEES IN THE LOCAL DIVISION ARE IN ADDITION TO THE REGULAR
11 NUMBER OF EMPLOYEES IN THE DEPARTMENT.12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 88B, § 63(a), (f), and (g).14 In subsection (a) of this section, the former phrase "with the powers,
15 duties, functions, and employees provided in this subtitle" is deleted as
16 unnecessary. The various provisions that relate to the powers, duties,
17 functions, and employees of the Local Division are stated explicitly in this
18 subtitle.19 In subsections (b) and (c) of this section, the former phrase "from time to
20 time" is deleted as surplusage.21 In subsection (c) of this section, the reference to employees "in the
22 Department" is added for clarity.

23 Defined term: "Department" § 1-101

24 2-602. AGREEMENTS WITH LOCAL GOVERNING BODIES.

25 (A) IN GENERAL.

26 (1) THE LOCAL GOVERNING BODY OF A COUNTY AND THE SECRETARY
27 MAY ENTER INTO AN AGREEMENT FOR THE DEPARTMENT TO ACT AS AND TAKE
28 OVER ALL OR SOME OF THE FUNCTIONS OF A LOCAL POLICE FORCE FOR THE
29 COUNTY OR A MUNICIPAL CORPORATION IN THE COUNTY.30 (2) THE LOCAL GOVERNING BODY OF A COUNTY MAY ENTER INTO AN
31 AGREEMENT WITH A MUNICIPAL CORPORATION IN THE COUNTY FOR THE
32 PARTICIPATION OF THE MUNICIPAL CORPORATION IN AN AGREEMENT ENTERED
33 INTO UNDER PARAGRAPH (1) OF THIS SUBSECTION.

1 (3) IN CHARLES COUNTY AND ST. MARY'S COUNTY, A MUNICIPAL
2 CORPORATION ALSO MAY ENTER INTO A SEPARATE AGREEMENT WITH THE
3 DEPARTMENT.

4 (B) ENFORCEMENT RESPONSIBILITIES OF DEPARTMENT.

5 (1) IN ACCORDANCE WITH AN AGREEMENT ENTERED INTO UNDER
6 SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT WITHIN THE COUNTY SHALL:

7 (I) ENFORCE THE PUBLIC LOCAL LAWS OF THE COUNTY OR
8 MUNICIPAL CORPORATION;

9 (II) PERFORM RELATED POLICE SERVICES; AND

10 (III) PERFORM THE DEPARTMENT'S OTHER AND REGULAR DUTIES
11 IN THE COUNTY.

12 (2) FOR PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION, THE
13 DEPARTMENT SHALL PROVIDE THE EMPLOYEES, BUILDINGS, AND FACILITIES THAT
14 ARE REQUIRED BY AGREEMENT OR, IF NOT SO REQUIRED, THAT THE DEPARTMENT
15 CONSIDERS REASONABLE AND PROPER TO ACHIEVE THE OBJECTIVES OF THE
16 AGREEMENT.

17 (C) REIMBURSEMENTS TO DEPARTMENT.

18 EACH AGREEMENT ENTERED INTO UNDER SUBSECTION (A) OF THIS SECTION
19 SHALL PROVIDE:

20 (1) THAT THE SECRETARY SHALL DETERMINE THE REASONABLE AND
21 PROPER COST OF THE LOCAL DIVISION FOR AND WITHIN THE PARTICULAR COUNTY
22 OR MUNICIPAL CORPORATION;

23 (2) THAT THE COUNTY OR MUNICIPAL CORPORATION SHALL
24 REIMBURSE THE DEPARTMENT THE ENTIRE AMOUNT OF THE COST OF THE LOCAL
25 DIVISION IN THE COUNTY OR MUNICIPAL CORPORATION; AND

26 (3) FOR THE TIME AND MANNER OF REIMBURSEMENTS BY THE COUNTY
27 OR MUNICIPAL CORPORATION TO THE DEPARTMENT FOR THE COST OF THE LOCAL
28 DIVISION.

29 (D) PRIOR APPROVAL OF AGREEMENT.

30 (1) EACH AGREEMENT ENTERED INTO UNDER SUBSECTION (A) OF THIS
31 SECTION REQUIRES THE PRIOR APPROVAL OF THE ATTORNEY GENERAL AS TO LEGAL
32 SUFFICIENCY.

33 (2) FINANCIAL ARRANGEMENTS IN EACH AGREEMENT ENTERED INTO
34 UNDER SUBSECTION (A) OF THIS SECTION REQUIRE THE PRIOR APPROVAL OF THE
35 SECRETARY OF BUDGET AND MANAGEMENT.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 88B, § 63(b), (c), (d), and (e).

3 Throughout this section, references to a "municipal corporation" are
4 substituted for the former references to a "municipality" to conform to Md.
5 Constitution, Art. XI-E.

6 In subsection (a)(1) of this section, the reference to the "local governing
7 body of a county" is substituted for the former reference to the "board of
8 county commissioners or county council of any county, or the Mayor and
9 City Council of the City of Baltimore" for brevity, and to conform to
10 subsection (a)(2) of this section. The Public Safety Article Review
11 Committee notes this substitution for the consideration of the General
12 Assembly. No substantive change is intended.

13 In subsection (a)(2) of this section, the reference to "an agreement entered
14 into under paragraph (1) of this subsection" is substituted for the former
15 reference to "the contractual agreements entered into by the local
16 governing bodies and the Department" to avoid confusion with the
17 reference to agreements between a county and a municipal corporation.

18 In subsection (b)(1)(iii) of this section, the former phrase "in addition" is
19 deleted as surplusage.

20 In subsection (b)(2) of this section, the phrase "achieve the objectives" of
21 the agreement is substituted for the former phrase "perform the objects" of
22 the agreement for clarity.

23 In subsection (c)(1) of this section, the reference to the cost of the Local
24 Division within the "municipal corporation" is added for consistency with
25 subsection (c)(2) and (3) of this section.

26 In subsection (c)(3) of this section, the reference to "reimbursements" is
27 substituted for the former reference to "payments" to conform to the
28 requirement that the county or municipal corporation "reimburse" the
29 Department in subsection (c)(2) of this section.

30 In subsection (d)(1) of this section, the former reference to the "Office of"
31 the Attorney General is deleted as surplusage. Prior approval of an
32 agreement entered into under this section is a duty of the Attorney
33 General, not the Office of the Attorney General.

34 Defined terms: "County" § 1-101

35 "Department" § 2-101

36 "Secretary" § 2-101

37 2-603. DEPRECIATION OF EQUIPMENT IF AGREEMENT TERMINATED.

38 (A) IN GENERAL.

1 IF AN AGREEMENT ENTERED INTO UNDER § 2-602 OF THIS SUBTITLE IS
2 TERMINATED, THE VALUE OF MOTOR VEHICLES, RADIOS, AND LIGHT BARS PAID FOR
3 BY A COUNTY OR MUNICIPAL CORPORATION UNDER THE AGREEMENT SHALL BE
4 DEPRECIATED IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

5 (B) DEPRECIATION SCHEDULE.

6 THE VALUE OF MOTOR VEHICLES, RADIOS, AND LIGHT BARS SHALL BE
7 DEPRECIATED OVER A 5-YEAR PERIOD BEGINNING ON THE DATE THE EQUIPMENT
8 WAS PUT IN SERVICE AS FOLLOWS:

9 (1) AFTER 1 YEAR, THE EQUIPMENT SHALL BE VALUED AT 80% OF ITS
10 INITIAL COST;

11 (2) AFTER 2 YEARS, THE EQUIPMENT SHALL BE VALUED AT 60% OF ITS
12 INITIAL COST;

13 (3) AFTER 3 YEARS, THE EQUIPMENT SHALL BE VALUED AT 40% OF ITS
14 INITIAL COST;

15 (4) AFTER 4 YEARS, THE EQUIPMENT SHALL BE VALUED AT 20% OF ITS
16 INITIAL COST; AND

17 (5) AFTER 5 YEARS, THE EQUIPMENT SHALL BE CONSIDERED TO HAVE
18 NO REMAINING VALUE FOR PURPOSES OF THIS SECTION.

19 (C) REIMBURSEMENT BY DEPARTMENT.

20 THE DEPARTMENT SHALL REIMBURSE THE COUNTY OR MUNICIPAL
21 CORPORATION FOR THE DEPRECIATED VALUE OF THE MOTOR VEHICLES, RADIOS,
22 AND LIGHT BARS.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 88B, § 63(i).

25 Throughout this section, the substance of the former definition of
26 "equipment" is incorporated into each revised provision.

27 Defined terms: "County" § 1-101

28 "Department" § 1-101

29 2-604. TERMINATION OF SERVICES OF POLICE EMPLOYEES UNDER AGREEMENT.

30 (A) IN GENERAL.

31 SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF EIGHT OR MORE POLICE
32 EMPLOYEES ARE ASSIGNED TO A COUNTY OR MUNICIPAL CORPORATION IN
33 ACCORDANCE WITH AN AGREEMENT ENTERED INTO UNDER § 2-602 OF THIS
34 SUBTITLE:

1 (1) THE COUNTY OR MUNICIPAL CORPORATION SHALL GIVE THE
2 DEPARTMENT AT LEAST 5 YEARS' NOTICE WHENEVER THE COUNTY OR MUNICIPAL
3 CORPORATION DECIDES TO TERMINATE THE SERVICES OF POLICE EMPLOYEES
4 PROVIDED UNDER THE AGREEMENT; AND

5 (2) THE NUMBER OF POLICE EMPLOYEES ASSIGNED TO THE COUNTY OR
6 MUNICIPAL CORPORATION IN ACCORDANCE WITH THE AGREEMENT SHALL BE
7 PHASED OUT OVER 5 YEARS.

8 (B) MODIFICATION OF MANNER OF TERMINATION AUTHORIZED.

9 THE DEPARTMENT AND COUNTY OR MUNICIPAL CORPORATION MAY MODIFY
10 THE MANNER IN WHICH THE SERVICES OF POLICE EMPLOYEES ARE TERMINATED IN
11 AN AGREEMENT ENTERED INTO UNDER § 2-602 OF THIS SUBTITLE.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 88B, § 63(j).

14 In subsections (a)(1) and (b) of this section, the reference to services "of
15 police employees" is added for clarity.

16 Defined terms: "County" § 1-101

17 "Department" § 1-101

18 "Police employee" § 2-101

19 GENERAL REVISOR'S NOTE TO SUBTITLE:

20 Former Art. 88B, § 63(h), which provided that the term "county" includes
21 Baltimore City, is deleted in light of the defined term "county" in § 1-101 of this
22 article to the same effect.

23 SUBTITLE 7. VEHICLE THEFT PREVENTION COUNCIL AND VEHICLE THEFT
24 PREVENTION FUND.

25 2-701. DEFINITIONS.

26 (A) IN GENERAL.

27 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

28 REVISOR'S NOTE: This subsection formerly was Art. 88B, § 71(a).

29 No changes are made.

30 (B) COMMERCIAL MOTOR VEHICLE.

31 "COMMERCIAL MOTOR VEHICLE" HAS THE MEANING STATED IN § 11-109.1 OF
32 THE TRANSPORTATION ARTICLE.

33 REVISOR'S NOTE: This subsection formerly was Art. 88B, § 71(b).

1 %No changes are made.

2 (C) COUNCIL.

3 "COUNCIL" MEANS THE VEHICLE THEFT PREVENTION COUNCIL.

4 REVISOR'S NOTE: This subsection formerly was Art. 88B, § 71(c).

5 No changes are made.

6 (D) FUND.

7 "FUND" MEANS THE VEHICLE THEFT PREVENTION FUND.

8 REVISOR'S NOTE: This subsection formerly was Art. 88B, § 71(d).

9 No changes are made.

10 2-702. VEHICLE THEFT PREVENTION COUNCIL.

11 (A) ESTABLISHED; PURPOSE.

12 (1) THERE IS A VEHICLE THEFT PREVENTION COUNCIL IN THE
13 DEPARTMENT.

14 (2) THE PURPOSE OF THE COUNCIL IS TO HELP PREVENT AND DETER
15 THEFT OF PRIVATE PASSENGER AND COMMERCIAL MOTOR VEHICLES AND RELATED
16 CRIME, INCLUDING VANDALISM AND THEFT OF PROPERTY FROM VEHICLES, IN THE
17 STATE.

18 (B) MEMBERSHIP.

19 (1) THE COUNCIL CONSISTS OF THE FOLLOWING 13 MEMBERS
20 APPOINTED BY THE GOVERNOR:

21 (I) AS EX OFFICIO MEMBERS OF THE COUNCIL:

22 1. THE SECRETARY OR A DESIGNEE;

23 2. THE SECRETARY OF JUVENILE JUSTICE OR A DESIGNEE;

24 3. THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL
25 SERVICES OR A DESIGNEE; AND

26 4. THE MOTOR VEHICLE ADMINISTRATOR OF THE MOTOR
27 VEHICLE ADMINISTRATION; AND

28 (II) NINE REGULAR MEMBERS.

29 (2) OF THE NINE REGULAR MEMBERS:

- 1 (I) ONE MEMBER SHALL REPRESENT A LOCAL LAW ENFORCEMENT
2 AGENCY;
- 3 (II) ONE MEMBER SHALL REPRESENT A STATE'S ATTORNEY'S
4 OFFICE IN THE STATE;
- 5 (III) ONE MEMBER SHALL REPRESENT A DOMESTIC INSURER THAT
6 ISSUES PRIVATE PASSENGER AUTOMOBILE OR COMMERCIAL MOTOR VEHICLE
7 LIABILITY INSURANCE IN THE STATE;
- 8 (IV) ONE MEMBER SHALL REPRESENT A FOREIGN INSURER THAT
9 ISSUES PRIVATE PASSENGER AUTOMOBILE OR COMMERCIAL MOTOR VEHICLE
10 LIABILITY INSURANCE IN THE STATE;
- 11 (V) ONE MEMBER SHALL REPRESENT THE GOVERNOR'S OFFICE;
- 12 (VI) ONE MEMBER SHALL REPRESENT THE NATIONAL INSURANCE
13 CRIME BUREAU OR A SIMILAR ORGANIZATION; AND
- 14 (VII) THREE MEMBERS SHALL REPRESENT THE PUBLIC, INCLUDING
15 ONE MEMBER WHO REPRESENTS A NEIGHBORHOOD OR COMMUNITY ASSOCIATION.
- 16 (C) TENURE; VACANCY.
- 17 (1) THE MEMBERS SERVE AT THE PLEASURE OF THE GOVERNOR.
- 18 (2) THE TERM OF A REGULAR MEMBER IS 3 YEARS.
- 19 (3) THE TERMS OF THE REGULAR MEMBERS ARE STAGGERED AS
20 REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COUNCIL ON OCTOBER
21 1, 2003.
- 22 (4) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
23 SUCCESSOR IS APPOINTED AND QUALIFIES.
- 24 (D) CHAIRMAN.
- 25 THE GOVERNOR SHALL APPOINT THE CHAIRMAN OF THE COUNCIL.
- 26 (E) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.
- 27 A MEMBER OF THE COUNCIL:
- 28 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COUNCIL;
29 BUT
- 30 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES FROM THE FUND
31 IN ACCORDANCE WITH THE STANDARD STATE TRAVEL REGULATIONS.
- 32 (F) EXECUTIVE DIRECTOR; EXPENSES; LEGAL ADVISOR.

1 (1) THE COUNCIL SHALL EMPLOY AN EXECUTIVE DIRECTOR, WHO
2 SHALL BE APPOINTED BY THE GOVERNOR.

3 (2) THE EXPENSES OF THE COUNCIL, INCLUDING STAFF SALARIES AND
4 ADMINISTRATIVE EXPENSES, SHALL BE PAID FROM THE FUND BUT MAY NOT
5 EXCEED 7% OF THE TOTAL EXPENDITURES FROM THE FUND IN A FISCAL YEAR.

6 (3) THE ASSISTANT ATTORNEY GENERAL ASSIGNED TO THE
7 DEPARTMENT IS THE LEGAL ADVISOR TO THE COUNCIL.

8 (G) POWERS AND DUTIES.

9 (1) THE COUNCIL HAS THE FOLLOWING POWERS AND DUTIES:

10 (I) TO MAKE GRANTS FROM THE FUND FOR MOTOR VEHICLE
11 THEFT INTERVENTION PROGRAMS, AS PROVIDED IN § 2-703 OF THIS SUBTITLE;

12 (II) TO SOLICIT AND ACCEPT MONEY FOR DEPOSIT INTO THE FUND,
13 TO BE USED TO CARRY OUT THE PURPOSES OF THIS SUBTITLE;

14 (III) TO ESTABLISH OR ASSIST IN THE ESTABLISHMENT OF
15 PROGRAMS DESIGNED TO REDUCE THE INCIDENCE OF VEHICLE THEFT AND
16 RELATED CRIME;

17 (IV) TO IDENTIFY PRIORITIES FOR THEFT PREVENTION
18 STRATEGIES IN THE STATE AND CRITERIA FOR THE COUNCIL'S EVALUATION OF
19 RECIPIENTS OF ASSISTANCE FROM THE COUNCIL; AND

20 (V) TO STUDY AND PROPOSE LAWS THAT WILL FURTHER PREVENT
21 AND DETER VEHICLE THEFT AND RELATED CRIME.

22 (2) THE COUNCIL SHALL DEVELOP AND IMPLEMENT A PLAN OF
23 OPERATION.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 88B, §§ 72, 73, and 75.

26 In subsection (b)(2)(i) of this section, the reference to a local law
27 enforcement "agency" is substituted for the former reference to an
28 "authority" for consistency with terminology used throughout this article.

29 In subsection (b)(2)(vii) of this section, the former reference to the
30 "general" public is deleted as surplusage.

31 In subsection (c)(3) of this section, the reference to "October 1, 2003" is
32 substituted for the former obsolete reference to "July 1, 1994" to reflect the
33 effective date of this revision. This substitution is not intended to alter the
34 term of any member of the Council. *See* § ___ of Ch. ___, Acts of 2003.

35 Subsection (e) of this section is revised in standard language used to
36 describe the compensation and reimbursement of expenses of members of a

1 board or commission.

2 In subsection (g)(1)(i) of this section, the former reference to "awards" is
3 deleted as included in the reference to "grants". The term "grants" is used
4 for consistency throughout this article.

5 Defined terms: "Commercial motor vehicle" § 2-701

6 "Council" § 2-701

7 "Department" § 2-101

8 "Fund" § 2-701

9 "Secretary" § 2-101

10 2-703. VEHICLE THEFT PREVENTION FUND.

11 (A) ESTABLISHED.

12 THERE IS A VEHICLE THEFT PREVENTION FUND.

13 (B) STATUS.

14 (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT
15 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

16 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE
17 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

18 (C) COMPOSITION.

19 THE FUND CONSISTS OF:

20 (1) MONEY RECEIVED BY THE FUND UNDER §§ 13-507 AND 17-106 OF THE
21 TRANSPORTATION ARTICLE;

22 (2) MONEY RECEIVED BY THE COUNCIL OR THE FUND FROM ANY
23 SOURCE; AND

24 (3) INVESTMENT EARNINGS OF THE FUND.

25 (D) INVESTMENTS.

26 THE MONEY OF THE FUND SHALL BE INVESTED IN THE SAME MANNER AS
27 OTHER STATE MONEY.

28 (E) PRIORITY OF EXPENDITURES.

29 THE COUNCIL SHALL SPEND MONEY IN THE FUND IN THE FOLLOWING ORDER
30 OF PRIORITY:

31 (1) TO PAY THE EXPENSES OF THE COUNCIL; AND

32 (2) TO CARRY OUT THE PURPOSES OF THIS SUBTITLE.

1 (F) PRIORITY OF ENTITIES AND PROGRAMS.

2 WHEN MAKING GRANTS FROM THE FUND, THE COUNCIL SHALL CONSIDER AND
3 PRIORITIZE THE FOLLOWING ENTITIES AND PROGRAMS:

4 (1) STATE AND LOCAL LAW ENFORCEMENT AGENCIES:

5 (I) TO ENHANCE VEHICLE THEFT ENFORCEMENT AND
6 PREVENTION TEAMS OR EFFORTS; AND

7 (II) FOR PROGRAMS DESIGNED TO REDUCE THE INCIDENCE OF
8 VEHICLE THEFT;

9 (2) LOCAL PROSECUTORS AND JUDICIAL AGENCIES, FOR ENHANCED
10 PROSECUTION AND ADJUDICATION OF VEHICLE THEFT CRIME;

11 (3) NEIGHBORHOOD, COMMUNITY, OR BUSINESS ORGANIZATIONS, FOR
12 PROGRAMS DESIGNED TO REDUCE THE INCIDENCE OF VEHICLE THEFT;

13 (4) EDUCATIONAL PROGRAMS DESIGNED TO INFORM MOTOR VEHICLE
14 OWNERS OF METHODS TO PREVENT MOTOR VEHICLE THEFT AND TO PROVIDE
15 EQUIPMENT, FOR EXPERIMENTAL PURPOSES, TO ENABLE MOTOR VEHICLE OWNERS
16 TO PREVENT MOTOR VEHICLE THEFT;

17 (5) PROGRAMS DESIGNED TO REDUCE THE INCIDENCE OF VEHICLE
18 THEFT AND RECIDIVISM BY JUVENILES; AND

19 (6) PROGRAMS DESIGNED TO REDUCE OR DETER DAMAGED OR
20 VANDALISM TO VEHICLES IN CONNECTION WITH VEHICLE THEFT OR THEFT OF
21 PROPERTY FROM VEHICLES.

22 (G) ALLOCATION OF GRANTS.

23 TO THE EXTENT PRACTICABLE, THE COUNCIL SHALL ALLOCATE GRANTS MADE
24 UNDER THIS SUBTITLE AMONG THE SUBDIVISIONS OF THE STATE ON A PRO RATA
25 BASIS DETERMINED BY THE TOTAL NUMBER OF VEHICLES REGISTERED IN EACH
26 SUBDIVISION DIVIDED BY THE TOTAL NUMBER OF VEHICLES REGISTERED IN THE
27 STATE.

28 (H) EXPENDITURES FROM FUND.

29 (1) EXPENDITURES FROM THE FUND MAY BE MADE ONLY:

30 (I) IN ACCORDANCE WITH THE STATE BUDGET; OR

31 (II) BY THE BUDGET AMENDMENT PROCEDURE AS PROVIDED IN §
32 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, IF AT LEAST 45 DAYS
33 HAVE PASSED SINCE THE BUDGET AMENDMENT AND SUPPORTING INFORMATION
34 WERE SUBMITTED TO THE BUDGET COMMITTEES FOR THEIR REVIEW AND
35 COMMENT.

1 (2) THE PROPOSED BUDGET AND ANY BUDGET AMENDMENT
2 SUBMITTED TO THE GENERAL ASSEMBLY SHALL INCLUDE AN ITEMIZED LIST OF
3 EACH GRANT AND OTHER EXPENDITURE FROM THE FUND TO BE MADE IN THE
4 FISCAL YEAR.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 88B, § 74.

7 In subsection (b)(2) of this section, the reference to holding the Fund
8 "separately" is added to clarify that the Treasurer shall keep this Fund
9 separate from other State funds. This language is standard language used
10 for special funds. *See, e.g.*, CS § 10-503(a)(3) and HG § 19-1515(d)(3).

11 Also in subsection (b)(2) of this section, the reference to the "Fund" is
12 substituted for the former reference to "funds" for clarity and to conform to
13 usage throughout this section.

14 Also in subsection (b)(2) of this section, the word "State", which formerly
15 modified "Treasurer" and "Comptroller", respectively, is deleted to conform
16 to SG §§ 5-101(a) and 4-101(a), respectively.

17 In subsection (c)(2) of this section, the former specific reference to "gifts,
18 grants, awards, or money from the federal or State government, a local
19 government or association, organization, or other private source" is deleted
20 as included in the general reference to money received "from any source".

21 Subsection (c)(3) of this section is revised to clarify that investment
22 earnings of the Fund are part of the Fund. Consequently, the former
23 reference to investment earnings being "paid into" the Fund is deleted as
24 implicit. Similarly, the former requirement that money received by the
25 Council "be placed" in the Fund is deleted as implicit in light of subsection
26 (c)(2) of this section, which provides that money received by the Council is
27 part of the Fund.

28 Subsection (d) of this section is revised in standard language to provide
29 that money in the Fund shall be invested in the same manner as other
30 State money. Therefore, the former reference to money being "reinvested"
31 is deleted as implicit and unnecessary.

32 In subsection (e)(2) of this section, the former reference to the "objectives"
33 of this subtitle is deleted as included in the reference to the "purposes".

34 In the introductory language of subsection (f) of this section, the reference
35 to "grants" is substituted for the former reference to "awards" for
36 consistency throughout this subtitle. Similarly, in subsection (g) of this
37 section, the former reference to "awards" is deleted as included in the
38 reference to "grants".

39 In subsection (f)(1)(i) of this section, the former reference to "augment" is
40 deleted as included in the reference to "enhance".

1 %In subsection (h)(1)(i) of this section, the phrase "in accordance with the
2 State budget" is substituted for the former phrase "[p]ursuant to an
3 appropriation approved by the General Assembly in the annual State
4 budget" for brevity and consistency with language used throughout this
5 article.

6 Defined terms: "Council" § 2-701

7 "Fund" § 2-701

8 TITLE 3. LAW ENFORCEMENT.

9 SUBTITLE 1. LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS.

10 3-101. DEFINITIONS.

11 (A) IN GENERAL.

12 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

13 REVISOR'S NOTE: This subsection formerly was Art. 27, § 727(a).

14 The only changes are in style.

15 (B) CHIEF.

16 (1) "CHIEF" MEANS THE HEAD OF A LAW ENFORCEMENT AGENCY.

17 (2) "CHIEF" INCLUDES THE OFFICER DESIGNATED BY THE HEAD OF A
18 LAW ENFORCEMENT AGENCY.

19 REVISOR'S NOTE: This subsection is new language derived without
20 substantive change from former Art. 27, § 727(g).

21 Paragraph (1) of this subsection is revised for clarity to refer generally to
22 the "head" of a law enforcement agency. Consequently, the former specific
23 references to the "superintendent", "commissioner", "chief of police", and
24 "sheriff" are deleted as included in the general reference to the "head" of a
25 law enforcement agency.

26 In paragraph (2) of this subsection, the reference to the "head of a law
27 enforcement agency" is substituted for the former reference to the "official"
28 for clarity and consistency with terminology used in paragraph (1) of this
29 subsection.

30 (C) HEARING.

31 (1) "HEARING" MEANS A PROCEEDING DURING AN INVESTIGATION
32 CONDUCTED BY A HEARING BOARD TO TAKE TESTIMONY OR RECEIVE OTHER
33 EVIDENCE.

1 (2) "HEARING" DOES NOT INCLUDE AN INTERROGATION AT WHICH NO
2 TESTIMONY IS TAKEN UNDER OATH.

3 REVISOR'S NOTE: This subsection is new language derived without
4 substantive change from former Art. 27, § 727(e).

5 In paragraph (1) of this subsection, the reference to a "proceeding" is
6 substituted for the former reference to a "meeting" for clarity.
7 Correspondingly, the reference to an "investigation" is substituted for the
8 former reference to an "investigatory proceeding" to avoid using the term
9 "proceeding" twice.

10 Also in paragraph (1) of this subsection, the former reference to "adducing"
11 testimony is deleted as included in the reference to "tak[ing]" testimony.

12 Defined term: "Hearing board" § 3-101

13 (D) HEARING BOARD.

14 "HEARING BOARD" MEANS A BOARD THAT IS AUTHORIZED BY THE CHIEF TO
15 HOLD A HEARING ON A COMPLAINT AGAINST A LAW ENFORCEMENT OFFICER.

16 REVISOR'S NOTE: This subsection is new language derived without
17 substantive change from the first clause of the first sentence of former Art.
18 27, § 727(d)(1).

19 Defined terms: "Chief" § 3-101

20 "Hearing" § 3-101

21 "Law enforcement officer" § 3-101

22 (E) LAW ENFORCEMENT OFFICER.

23 (1) "LAW ENFORCEMENT OFFICER" MEANS AN INDIVIDUAL WHO:

24 (I) IN AN OFFICIAL CAPACITY IS AUTHORIZED BY LAW TO MAKE
25 ARRESTS; AND

26 (II) IS A MEMBER OF ONE OF THE FOLLOWING LAW ENFORCEMENT
27 AGENCIES:

28 1. THE DEPARTMENT OF STATE POLICE;

29 2. THE POLICE DEPARTMENT OF BALTIMORE CITY;

30 3. THE BALTIMORE CITY SCHOOL POLICE FORCE;

31 4. THE BALTIMORE CITY WATERSHED POLICE FORCE;

32 5. THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A
33 COUNTY;

- 1
2 MUNICIPAL CORPORATION;
- 3
4
5 BICOUNTY AGENCY;
- 6
7
8 TRANSPORTATION;
- 9
10 RESOURCES;
- 11
12 COMPTROLLER'S OFFICE;
- 13
14 FORCE;
- 15
16
17 AND MENTAL HYGIENE;
- 18
19 SERVICES;
- 20
21 LICENSING, AND REGULATION;
- 22
23 MARYLAND;
- 24
25
- 26 (2) "Law Enforcement Officer" does not include:
- 27 (I) An individual who serves at the pleasure of the
28 Police Commissioner of Baltimore City;
- 29 (II) An individual who serves at the pleasure of the
30 appointing authority of a charter county;
- 31 (III) The Police Chief of a municipal corporation; or
6. THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A
7. THE OFFICE OF THE SHERIFF OF A COUNTY;
8. THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A
9. THE MARYLAND TRANSPORTATION AUTHORITY POLICE;
10. THE POLICE FORCES OF THE DEPARTMENT OF
11. THE POLICE FORCES OF THE DEPARTMENT OF NATURAL
12. THE FIELD ENFORCEMENT DIVISION OF THE
13. THE HOUSING AUTHORITY OF BALTIMORE CITY POLICE
14. THE CROFTON POLICE DEPARTMENT;
15. THE POLICE FORCE OF THE DEPARTMENT OF HEALTH
16. THE POLICE FORCE OF THE DEPARTMENT OF GENERAL
17. THE POLICE FORCE OF THE DEPARTMENT OF LABOR,
18. THE POLICE FORCES OF THE UNIVERSITY SYSTEM OF
19. THE POLICE FORCE OF MORGAN STATE UNIVERSITY; OR
20. THE OFFICE OF STATE FIRE MARSHAL.

1 (IV) AN OFFICER WHO IS IN PROBATIONARY STATUS ON INITIAL
2 ENTRY INTO THE LAW ENFORCEMENT AGENCY EXCEPT IF AN ALLEGATION OF
3 BRUTALITY IN THE EXECUTION OF THE OFFICER'S DUTIES IS MADE.

4 REVISOR'S NOTE: This subsection is new language derived without
5 substantive change from former Art. 27, § 727(b) and (c).

6 In the introductory language of paragraph (1) and in paragraph (2)(i) and
7 (ii) of this subsection, the reference to an "individual" is substituted for the
8 former reference to a "person" because only an individual, and not the
9 other entities included in the defined term "person", can be a law
10 enforcement officer. *See* § 1-101 of this article for the definition of
11 "person".

12 In paragraphs (1)(ii)6 and (2)(iii) of this subsection, the references to a
13 "municipal corporation" are substituted for the former references to an
14 "incorporated city or town" for consistency with Md. Constitution, Art.
15 XI-E.

16 In paragraph (1)(ii)7 of this subsection, the former reference to "Baltimore
17 City" is deleted as surplusage in light of the article-wide definition of
18 "county" in § 1-101 of this article.

19 In paragraph (1)(ii)11, 15, 16, 17, and 19 of this subsection, the reference to
20 the police "force[s]" is substituted for the former reference to police
21 "officers" for internal consistency in this paragraph in referring to law
22 enforcement agencies.

23 In paragraph (1)(ii)18 of this subsection, the reference to the police "forces"
24 of the University System of Maryland is substituted for the former
25 reference to police "officers" to indicate that each college/university in the
26 University System of Maryland has a separate police force.

27 In paragraph (1)(ii)20 of this subsection, the former reference to a
28 "full-time investigative and inspection assistant" is deleted for accuracy.
29 These individuals do not have arrest powers.

30 In paragraph (2)(iv) of this subsection, the reference to initial entry into
31 the "law enforcement agency" is substituted for the former reference to
32 initial entry into the "Department" because this provision is not limited to
33 officers who are entering a particular police department, but covers
34 officers entering any law enforcement agency listed in paragraph (1)(ii) of
35 this subsection.

36 Defined term: "County" § 1-101

37 3-102. EFFECT OF SUBTITLE.

38 (A) CONFLICTING LAW SUPERSEDED.

1 EXCEPT FOR THE ADMINISTRATIVE HEARING PROCESS UNDER TITLE 3,
2 SUBTITLE 2 OF THIS ARTICLE THAT RELATES TO THE CERTIFICATION ENFORCEMENT
3 POWER OF THE POLICE TRAINING COMMISSION, THIS SUBTITLE SUPERSEDES ANY
4 OTHER LAW OF THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION THAT
5 CONFLICTS WITH THIS SUBTITLE.

6 (B) PREEMPTION OF LOCAL LAW.

7 ANY LOCAL LAW IS PREEMPTED BY THE SUBJECT AND MATERIAL OF THIS
8 SUBTITLE.

9 (C) AUTHORITY OF CHIEF NOT LIMITED.

10 THIS SUBTITLE DOES NOT LIMIT THE AUTHORITY OF THE CHIEF TO REGULATE
11 THE COMPETENT AND EFFICIENT OPERATION AND MANAGEMENT OF A LAW
12 ENFORCEMENT AGENCY BY ANY REASONABLE MEANS INCLUDING TRANSFER AND
13 REASSIGNMENT IF:

14 (1) THAT ACTION IS NOT PUNITIVE IN NATURE; AND

15 (2) THE CHIEF DETERMINES THAT ACTION TO BE IN THE BEST
16 INTERESTS OF THE INTERNAL MANAGEMENT OF THE LAW ENFORCEMENT AGENCY.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 27, §§ 734B and 728(c).

19 In subsection (a) of this section, the former specific references to any
20 "ordinance" and "regulation" are deleted as included in the general
21 reference to "law".

22 In subsection (b) of this section, the reference to any local "law" is
23 substituted for the former reference to local "legislation" for consistency
24 with subsection (a) of this section.

25 In the introductory language of subsection (c) of this section, the former
26 phrase "but not limited to" is deleted as surplusage in light of the word
27 "including". *See* Art. 1, § 30.

28 Defined terms: "Chief" § 3-101

29 "County" § 1-101

30 3-103. RIGHTS OF LAW ENFORCEMENT OFFICERS GENERALLY.

31 (A) RIGHT TO ENGAGE IN POLITICAL ACTIVITY.

32 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A LAW
33 ENFORCEMENT OFFICER HAS THE SAME RIGHTS TO ENGAGE IN POLITICAL ACTIVITY
34 AS A STATE EMPLOYEE.

1 (2) THIS RIGHT TO ENGAGE IN POLITICAL ACTIVITY DOES NOT APPLY
2 WHEN THE LAW ENFORCEMENT OFFICER IS ON DUTY OR ACTING IN AN OFFICIAL
3 CAPACITY.

4 (B) REGULATION OF SECONDARY EMPLOYMENT.

5 A LAW ENFORCEMENT AGENCY:

6 (1) MAY NOT PROHIBIT SECONDARY EMPLOYMENT BY LAW
7 ENFORCEMENT OFFICERS; BUT

8 (2) MAY ADOPT REASONABLE REGULATIONS THAT RELATE TO
9 SECONDARY EMPLOYMENT BY LAW ENFORCEMENT OFFICERS.

10 (C) DISCLOSURE OF PROPERTY, INCOME, AND OTHER INFORMATION.

11 A LAW ENFORCEMENT OFFICER MAY NOT BE REQUIRED OR REQUESTED TO
12 DISCLOSE AN ITEM OF THE LAW ENFORCEMENT OFFICER'S PROPERTY, INCOME,
13 ASSETS, SOURCE OF INCOME, DEBTS, OR PERSONAL OR DOMESTIC EXPENDITURES,
14 INCLUDING THOSE OF A MEMBER OF THE LAW ENFORCEMENT OFFICER'S FAMILY OR
15 HOUSEHOLD, UNLESS:

16 (1) THE INFORMATION IS NECESSARY TO INVESTIGATE A POSSIBLE
17 CONFLICT OF INTEREST WITH RESPECT TO THE PERFORMANCE OF THE LAW
18 ENFORCEMENT OFFICER'S OFFICIAL DUTIES; OR

19 (2) THE DISCLOSURE IS REQUIRED BY FEDERAL OR STATE LAW.

20 (D) RETALIATION.

21 A LAW ENFORCEMENT OFFICER MAY NOT BE DISCHARGED, DISCIPLINED,
22 DEMOTED, OR DENIED PROMOTION, TRANSFER, OR REASSIGNMENT, OR OTHERWISE
23 DISCRIMINATED AGAINST IN REGARD TO THE LAW ENFORCEMENT OFFICER'S
24 EMPLOYMENT OR BE THREATENED WITH THAT TREATMENT BECAUSE THE LAW
25 ENFORCEMENT OFFICER:

26 (1) HAS EXERCISED OR DEMANDED THE RIGHTS GRANTED BY THIS
27 SUBTITLE; OR

28 (2) HAS LAWFULLY EXERCISED CONSTITUTIONAL RIGHTS.

29 (E) RIGHT TO SUE.

30 A STATUTE MAY NOT ABRIDGE AND A LAW ENFORCEMENT AGENCY MAY NOT
31 ADOPT A REGULATION THAT PROHIBITS THE RIGHT OF A LAW ENFORCEMENT
32 OFFICER TO BRING SUIT THAT ARISES OUT OF THE LAW ENFORCEMENT OFFICER'S
33 DUTIES AS A LAW ENFORCEMENT OFFICER.

34 (F) WAIVER OF RIGHTS.

1 A LAW ENFORCEMENT OFFICER MAY WAIVE IN WRITING ANY OR ALL RIGHTS
2 GRANTED BY THIS SUBTITLE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 27, §§ 729, 729A, 733, 734D, and 728(a) and
5 (b)(11).

6 In subsection (a)(1) of this section, the introductory phrase "[s]ubject to
7 paragraph (2) of this subsection" is added to clarify that the right to engage
8 in political activity is limited by subsection (a)(2) of this section.

9 In subsection (f) of this section, the defined term "law enforcement officer"
10 is substituted for the former term "officer" for consistency with
11 terminology used throughout this subtitle.

12 Also in subsection (f) of this section, the reference to rights "granted" by
13 this subtitle is substituted for the former reference to rights "provided" in
14 this subtitle for consistency with subsection (d)(1) of this section.

15 Defined term: "Law enforcement officer" § 3-101

16 3-104. INVESTIGATION OR INTERROGATION OF LAW ENFORCEMENT OFFICER.

17 (A) IN GENERAL.

18 THE INVESTIGATION OR INTERROGATION BY A LAW ENFORCEMENT AGENCY OF
19 A LAW ENFORCEMENT OFFICER FOR A REASON THAT MAY LEAD TO DISCIPLINARY
20 ACTION, DEMOTION, OR DISMISSAL SHALL BE CONDUCTED IN ACCORDANCE WITH
21 THIS SECTION.

22 (B) INTERROGATING OR INVESTIGATING OFFICER.

23 FOR PURPOSES OF THIS SECTION, THE INVESTIGATING OFFICER OR
24 INTERROGATING OFFICER SHALL BE:

25 (1) A SWORN LAW ENFORCEMENT OFFICER; OR

26 (2) IF REQUESTED BY THE GOVERNOR, THE ATTORNEY GENERAL OR
27 ATTORNEY GENERAL'S DESIGNEE.

28 (C) COMPLAINT THAT ALLEGES BRUTALITY.

29 (1) A COMPLAINT AGAINST A LAW ENFORCEMENT OFFICER THAT
30 ALLEGES BRUTALITY IN THE EXECUTION OF THE LAW ENFORCEMENT OFFICER'S
31 DUTIES MAY NOT BE INVESTIGATED UNLESS THE COMPLAINT IS SWORN TO, BEFORE
32 AN OFFICIAL AUTHORIZED TO ADMINISTER OATHS, BY:

33 (I) THE AGGRIEVED INDIVIDUAL;

34 (II) A MEMBER OF THE AGGRIEVED INDIVIDUAL'S IMMEDIATE
35 FAMILY;

1 (III) AN INDIVIDUAL WITH FIRS^THAND KNOWLEDGE OBTAINED
2 BECAUSE THE INDIVIDUAL WAS PRESENT AT AND OBSERVED THE ALLEGED
3 INCIDENT; OR

4 (IV) THE PARENT OR GUARDIAN OF THE MINOR CHILD, IF THE
5 ALLEGED INCIDENT INVOLVES A MINOR CHILD.

6 (2) UNLESS A COMPLAINT IS FILED WITHIN 90 DAYS AFTER THE
7 ALLEGED BRUTALITY, AN INVESTIGATION THAT MAY LEAD TO DISCIPLINARY ACTION
8 UNDER THIS SUBTITLE FOR BRUTALITY MAY NOT BE INITIATED AND AN ACTION MAY
9 NOT BE TAKEN.

10 (D) DISCLOSURES TO LAW ENFORCEMENT OFFICER UNDER INVESTIGATION.

11 (1) THE LAW ENFORCEMENT OFFICER UNDER INVESTIGATION SHALL
12 BE INFORMED OF THE NAME, RANK, AND COMMAND OF:

13 (I) THE LAW ENFORCEMENT OFFICER IN CHARGE OF THE
14 INVESTIGATION;

15 (II) THE INTERROGATING OFFICER; AND

16 (III) EACH INDIVIDUAL PRESENT DURING AN INTERROGATION.

17 (2) BEFORE AN INTERROGATION, THE LAW ENFORCEMENT OFFICER
18 UNDER INVESTIGATION SHALL BE INFORMED IN WRITING OF THE NATURE OF THE
19 INVESTIGATION.

20 (E) DISCLOSURES TO LAW ENFORCEMENT OFFICER UNDER ARREST.

21 IF THE LAW ENFORCEMENT OFFICER UNDER INTERROGATION IS UNDER
22 ARREST, OR IS LIKELY TO BE PLACED UNDER ARREST AS A RESULT OF THE
23 INTERROGATION, THE LAW ENFORCEMENT OFFICER SHALL BE INFORMED
24 COMPLETELY OF ALL OF THE LAW ENFORCEMENT OFFICER'S RIGHTS BEFORE THE
25 INTERROGATION BEGINS.

26 (F) TIME OF INTERROGATION.

27 UNLESS THE SERIOUSNESS OF THE INVESTIGATION IS OF A DEGREE THAT AN
28 IMMEDIATE INTERROGATION IS REQUIRED, THE INTERROGATION SHALL BE
29 CONDUCTED AT A REASONABLE HOUR, PREFERABLY WHEN THE LAW ENFORCEMENT
30 OFFICER IS ON DUTY.

31 (G) PLACE OF INTERROGATION.

32 (1) THE INTERROGATION SHALL TAKE PLACE:

33 (I) AT THE OFFICE OF THE COMMAND OF THE INVESTIGATING
34 OFFICER OR AT THE OFFICE OF THE LOCAL PRECINCT OR POLICE UNIT IN WHICH
35 THE INCIDENT ALLEGEDLY OCCURRED, AS DESIGNATED BY THE INVESTIGATING
36 OFFICER; OR

1 (II) AT ANOTHER REASONABLE AND APPROPRIATE PLACE.

2 (2) THE LAW ENFORCEMENT OFFICER UNDER INVESTIGATION MAY
3 WAIVE THE RIGHT DESCRIBED IN PARAGRAPH (1)(I) OF THIS SUBSECTION.

4 (H) CONDUCT OF INTERROGATION.

5 (1) ALL QUESTIONS DIRECTED TO THE LAW ENFORCEMENT OFFICER
6 UNDER INTERROGATION SHALL BE ASKED BY AND THROUGH ONE INTERROGATING
7 OFFICER DURING ANY ONE SESSION OF INTERROGATION CONSISTENT WITH
8 PARAGRAPH (2) OF THIS SUBSECTION.

9 (2) EACH SESSION OF INTERROGATION SHALL:

10 (I) BE FOR A REASONABLE PERIOD; AND

11 (II) ALLOW FOR PERSONAL NECESSITIES AND REST PERIODS AS
12 REASONABLY NECESSARY.

13 (I) THREAT OF TRANSFER, DISMISSAL, OR DISCIPLINARY ACTION
14 PROHIBITED.

15 THE LAW ENFORCEMENT OFFICER UNDER INTERROGATION MAY NOT BE
16 THREATENED WITH TRANSFER, DISMISSAL, OR DISCIPLINARY ACTION.

17 (J) RIGHT TO COUNSEL.

18 (1) (I) ON REQUEST, THE LAW ENFORCEMENT OFFICER UNDER
19 INTERROGATION HAS THE RIGHT TO BE REPRESENTED BY COUNSEL OR ANOTHER
20 RESPONSIBLE REPRESENTATIVE OF THE LAW ENFORCEMENT OFFICER'S CHOICE
21 WHO SHALL BE PRESENT AND AVAILABLE FOR CONSULTATION AT ALL TIMES
22 DURING THE INTERROGATION.

23 (II) THE LAW ENFORCEMENT OFFICER MAY WAIVE THE RIGHT
24 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.

25 (2) (I) THE INTERROGATION SHALL BE SUSPENDED FOR A PERIOD
26 NOT EXCEEDING 10 DAYS UNTIL REPRESENTATION IS OBTAINED.

27 (II) WITHIN THAT 10-DAY PERIOD, THE CHIEF FOR GOOD CAUSE
28 SHOWN MAY EXTEND THE PERIOD FOR OBTAINING REPRESENTATION.

29 (3) DURING THE INTERROGATION, THE LAW ENFORCEMENT OFFICER'S
30 COUNSEL OR REPRESENTATIVE MAY:

31 (I) REQUEST A RECESS AT ANY TIME TO CONSULT WITH THE LAW
32 ENFORCEMENT OFFICER;

33 (II) OBJECT TO ANY QUESTION POSED; AND

1 (III) STATE ON THE RECORD OUTSIDE THE PRESENCE OF THE LAW
2 ENFORCEMENT OFFICER THE REASON FOR THE OBJECTION.

3 (K) RECORD OF INTERROGATION.

4 (1) A COMPLETE RECORD SHALL BE KEPT OF THE ENTIRE
5 INTERROGATION, INCLUDING ALL RECESS PERIODS, OF THE LAW ENFORCEMENT
6 OFFICER.

7 (2) THE RECORD MAY BE WRITTEN, TAPED, OR TRANSCRIBED.

8 (3) ON COMPLETION OF THE INVESTIGATION, AND ON REQUEST OF THE
9 LAW ENFORCEMENT OFFICER UNDER INVESTIGATION OR THE LAW ENFORCEMENT
10 OFFICER'S COUNSEL OR REPRESENTATIVE, A COPY OF THE RECORD OF THE
11 INTERROGATION SHALL BE MADE AVAILABLE AT LEAST 10 DAYS BEFORE A HEARING.

12 (L) TESTS AND EXAMINATIONS -- IN GENERAL.

13 (1) THE LAW ENFORCEMENT AGENCY MAY ORDER THE LAW
14 ENFORCEMENT OFFICER UNDER INVESTIGATION TO SUBMIT TO BLOOD ALCOHOL
15 TESTS, BLOOD, BREATH, OR URINE TESTS FOR CONTROLLED DANGEROUS
16 SUBSTANCES, POLYGRAPH EXAMINATIONS, OR INTERROGATIONS THAT
17 SPECIFICALLY RELATE TO THE SUBJECT MATTER OF THE INVESTIGATION.

18 (2) IF THE LAW ENFORCEMENT AGENCY ORDERS THE LAW
19 ENFORCEMENT OFFICER TO SUBMIT TO A TEST, EXAMINATION, OR INTERROGATION
20 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION AND THE LAW ENFORCEMENT
21 OFFICER REFUSES TO DO SO, THE LAW ENFORCEMENT AGENCY MAY COMMENCE AN
22 ACTION THAT MAY LEAD TO A PUNITIVE MEASURE AS A RESULT OF THE REFUSAL.

23 (3) IF THE LAW ENFORCEMENT AGENCY ORDERS THE LAW
24 ENFORCEMENT OFFICER TO SUBMIT TO A TEST, EXAMINATION, OR INTERROGATION
25 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE RESULTS OF THE TEST,
26 EXAMINATION, OR INTERROGATION ARE NOT ADMISSIBLE OR DISCOVERABLE IN A
27 CRIMINAL PROCEEDING AGAINST THE LAW ENFORCEMENT OFFICER.

28 (M) SAME -- POLYGRAPH EXAMINATIONS.

29 (1) IF THE LAW ENFORCEMENT AGENCY ORDERS THE LAW
30 ENFORCEMENT OFFICER TO SUBMIT TO A POLYGRAPH EXAMINATION, THE RESULTS
31 OF THE POLYGRAPH EXAMINATION MAY NOT BE USED AS EVIDENCE IN AN
32 ADMINISTRATIVE HEARING UNLESS THE LAW ENFORCEMENT AGENCY AND THE LAW
33 ENFORCEMENT OFFICER AGREE TO THE ADMISSION OF THE RESULTS.

34 (2) THE LAW ENFORCEMENT OFFICER'S COUNSEL OR REPRESENTATIVE
35 NEED NOT BE PRESENT DURING THE ACTUAL ADMINISTRATION OF A POLYGRAPH
36 EXAMINATION BY A CERTIFIED POLYGRAPH EXAMINER IF:

1 (I) THE QUESTIONS TO BE ASKED ARE REVIEWED WITH THE LAW
2 ENFORCEMENT OFFICER OR THE COUNSEL OR REPRESENTATIVE BEFORE THE
3 ADMINISTRATION OF THE EXAMINATION;

4 (II) THE COUNSEL OR REPRESENTATIVE IS ALLOWED TO OBSERVE
5 THE ADMINISTRATION OF THE EXAMINATION; AND

6 (III) A COPY OF THE FINAL REPORT OF THE EXAMINATION BY THE
7 CERTIFIED POLYGRAPH EXAMINER IS MADE AVAILABLE TO THE LAW ENFORCEMENT
8 OFFICER OR THE COUNSEL OR REPRESENTATIVE WITHIN A REASONABLE TIME, NOT
9 EXCEEDING 10 DAYS, AFTER COMPLETION OF THE EXAMINATION.

10 (N) INFORMATION PROVIDED ON COMPLETION OF INVESTIGATION.

11 (1) ON COMPLETION OF AN INVESTIGATION AND AT LEAST 10 DAYS
12 BEFORE A HEARING, THE LAW ENFORCEMENT OFFICER UNDER INVESTIGATION
13 SHALL BE:

14 (I) NOTIFIED OF THE NAME OF EACH WITNESS AND OF EACH
15 CHARGE AND SPECIFICATION AGAINST THE LAW ENFORCEMENT OFFICER; AND

16 (II) PROVIDED WITH A COPY OF THE INVESTIGATORY FILE AND
17 ANY EXCULPATORY INFORMATION, IF THE LAW ENFORCEMENT OFFICER AND THE
18 LAW ENFORCEMENT OFFICER'S REPRESENTATIVE AGREE TO:

19 1. EXECUTE A CONFIDENTIALITY AGREEMENT WITH THE
20 LAW ENFORCEMENT AGENCY NOT TO DISCLOSE ANY MATERIAL CONTAINED IN THE
21 INVESTIGATORY FILE AND EXCULPATORY INFORMATION FOR ANY PURPOSE OTHER
22 THAN TO DEFEND THE LAW ENFORCEMENT OFFICER; AND

23 2. PAY A REASONABLE CHARGE FOR THE COST OF
24 REPRODUCING THE MATERIAL.

25 (2) THE LAW ENFORCEMENT AGENCY MAY EXCLUDE FROM THE
26 EXCULPATORY INFORMATION PROVIDED TO A LAW ENFORCEMENT OFFICER UNDER
27 THIS SUBSECTION:

28 (I) THE IDENTITY OF CONFIDENTIAL SOURCES;

29 (II) NONEXCULPATORY INFORMATION; AND

30 (III) RECOMMENDATIONS AS TO CHARGES, DISPOSITION, OR
31 PUNISHMENT.

32 (O) ADVERSE MATERIAL.

33 (1) THE LAW ENFORCEMENT AGENCY MAY NOT INSERT ADVERSE
34 MATERIAL INTO A FILE OF THE LAW ENFORCEMENT OFFICER, EXCEPT THE FILE OF
35 THE INTERNAL INVESTIGATION OR THE INTELLIGENCE DIVISION, UNLESS THE LAW

1 ENFORCEMENT OFFICER HAS AN OPPORTUNITY TO REVIEW, SIGN, RECEIVE A COPY
2 OF, AND COMMENT IN WRITING ON THE ADVERSE MATERIAL.

3 (2) THE LAW ENFORCEMENT OFFICER MAY WAIVE THE RIGHT
4 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 27, §§ 727(h) and 728(b)(1) through (10), (12)(i),
7 and (14).

8 In subsection (a) of this section, the former reference to conducting an
9 investigation or interrogation under "the following conditions" is deleted as
10 implicit in the reference to the investigation or interrogation being
11 conducted in accordance with this section.

12 Subsection (b) of this section is revised to incorporate the substance of the
13 former definitions of "interrogating officer" and "investigating officer". The
14 former defined terms appeared only in former Art. 27, § 728(b)(2) and (3),
15 which are revised in subsections (d)(1) and (g) of this section. The former
16 defined terms listed the qualifications of an individual who may conduct
17 an interrogation or investigation and are revised as a substantive
18 provision for purposes of this section. Consequently, the former phrase "all
19 other forms of those terms" is deleted as unnecessary.

20 In subsections (c)(1)(i), (ii), and (iii) and (d)(1)(iii) of this section, the
21 reference to an "individual" is substituted for the former reference to a
22 "person" because only an individual, and not the other entities included in
23 the defined term "person", may be aggrieved by an alleged incident, swear
24 to complaints, and be present during an interrogation. *See* § 1-101 of this
25 article for the definition of "person".

26 In subsection (c)(1)(iv) of this section, the phrase "if the alleged incident
27 involves" a minor child is substituted for the former phrase "in the case of"
28 a minor child for clarity.

29 In subsection (f) of this section, the former phrase "at a time" is deleted as
30 redundant of the word "when".

31 In subsection (h)(1) of this section, the reference to an "interrogating
32 officer" is substituted for the former reference to an "interrogator" for
33 consistency with terminology used in subsection (b) of this section.

34 In subsection (k)(1) of this section, the reference to the "entire"
35 interrogation is substituted for the former reference to the "complete"
36 interrogation because in the context of this provision the adjective "entire"
37 seemed to the Public Safety Article Review Committee to be a better word
38 choice.

39 In subsection (k)(3) of this section, the reference to the law enforcement
40 officer's "representative" is added for consistency with subsection (j) of this

1 section.

2 In subsection (m)(2) of this section, the references to the law enforcement
3 officer's "counsel" is added for consistency with subsection (j) of this
4 section.

5 Defined terms: "Chief" § 3-101

6 "Hearing" § 3-101

7 "Law enforcement officer" § 3-101

8 "Person" § 1-101

9 3-105. APPLICATION FOR SHOW CAUSE ORDER.

10 (A) IN GENERAL.

11 A LAW ENFORCEMENT OFFICER WHO IS DENIED A RIGHT GRANTED BY THIS
12 SUBTITLE MAY APPLY TO THE CIRCUIT COURT OF THE COUNTY WHERE THE LAW
13 ENFORCEMENT OFFICER IS REGULARLY EMPLOYED FOR AN ORDER THAT DIRECTS
14 THE LAW ENFORCEMENT AGENCY TO SHOW CAUSE WHY THE RIGHT SHOULD NOT BE
15 GRANTED.

16 (B) CONDITIONS.

17 THE LAW ENFORCEMENT OFFICER MAY APPLY FOR THE SHOW CAUSE ORDER:

18 (1) EITHER INDIVIDUALLY OR THROUGH THE LAW ENFORCEMENT
19 OFFICER'S CERTIFIED OR RECOGNIZED EMPLOYEE ORGANIZATION; AND

20 (2) AT ANY TIME PRIOR TO THE BEGINNING OF A HEARING BY THE
21 HEARING BOARD.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 27, § 734.

24 In subsection (a) of this section, the references to a right "granted" by this
25 subtitle are substituted for the former references to a right "afforded" for
26 consistency with language used throughout this subtitle.

27 Defined terms: "County" § 1-101

28 "Hearing" § 3-101

29 "Hearing board" § 3-101

30 "Law enforcement officer" § 3-101

31 3-106. LIMITATION ON ADMINISTRATIVE CHARGES.

32 (A) IN GENERAL.

33 SUBJECT TO SUBSECTION (B) OF THIS SECTION, A LAW ENFORCEMENT AGENCY
34 MAY NOT BRING ADMINISTRATIVE CHARGES AGAINST A LAW ENFORCEMENT
35 OFFICER UNLESS THE AGENCY FILES THE CHARGES WITHIN 1 YEAR AFTER THE ACT

1 THAT GIVES RISE TO THE CHARGES COMES TO THE ATTENTION OF THE
2 APPROPRIATE LAW ENFORCEMENT AGENCY OFFICIAL.

3 (B) EXCEPTION.

4 THE 1-YEAR LIMITATION OF SUBSECTION (A) OF THIS SECTION DOES NOT
5 APPLY TO CHARGES THAT RELATE TO CRIMINAL ACTIVITY OR EXCESSIVE FORCE.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 27, § 730(b).

8 Subsection (a) of this section is revised in the active voice to clarify that a
9 law enforcement agency files administrative charges against a law
10 enforcement officer.

11 Defined term: "Law enforcement officer" § 3-101

12 3-107. HEARING BY HEARING BOARD.

13 (A) RIGHT TO HEARING.

14 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND §
15 3-111 OF THIS SUBTITLE, IF THE INVESTIGATION OR INTERROGATION OF A LAW
16 ENFORCEMENT OFFICER RESULTS IN A RECOMMENDATION OF DEMOTION,
17 DISMISSAL, TRANSFER, LOSS OF PAY, REASSIGNMENT, OR SIMILAR ACTION THAT IS
18 CONSIDERED PUNITIVE, THE LAW ENFORCEMENT OFFICER IS ENTITLED TO A
19 HEARING ON THE ISSUES BY A HEARING BOARD BEFORE THE LAW ENFORCEMENT
20 AGENCY TAKES THAT ACTION.

21 (2) A LAW ENFORCEMENT OFFICER WHO HAS BEEN CONVICTED OF A
22 FELONY IS NOT ENTITLED TO A HEARING UNDER THIS SECTION.

23 (B) NOTICE OF HEARING.

24 (1) THE LAW ENFORCEMENT AGENCY SHALL GIVE NOTICE TO THE LAW
25 ENFORCEMENT OFFICER OF THE RIGHT TO A HEARING BY A HEARING BOARD UNDER
26 THIS SECTION.

27 (2) THE NOTICE REQUIRED UNDER THIS SUBSECTION SHALL STATE THE
28 TIME AND PLACE OF THE HEARING AND THE ISSUES INVOLVED.

29 (C) MEMBERSHIP OF HEARING BOARD.

30 (1) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION AND
31 IN § 3-111 OF THIS SUBTITLE, THE HEARING BOARD AUTHORIZED UNDER THIS
32 SECTION SHALL CONSIST OF AT LEAST THREE MEMBERS WHO:

33 (I) ARE APPOINTED BY THE CHIEF AND CHOSEN FROM LAW
34 ENFORCEMENT OFFICERS WITHIN THAT LAW ENFORCEMENT AGENCY, OR FROM
35 LAW ENFORCEMENT OFFICERS OF ANOTHER LAW ENFORCEMENT AGENCY WITH
36 THE APPROVAL OF THE CHIEF OF THE OTHER AGENCY; AND

1 (II) HAVE HAD NO PART IN THE INVESTIGATION OR
2 INTERROGATION OF THE LAW ENFORCEMENT OFFICER.

3 (2) AT LEAST ONE MEMBER OF THE HEARING BOARD SHALL BE OF THE
4 SAME RANK AS THE LAW ENFORCEMENT OFFICER AGAINST WHOM THE COMPLAINT
5 IS FILED.

6 (3) (I) IF THE CHIEF IS THE LAW ENFORCEMENT OFFICER UNDER
7 INVESTIGATION, THE CHIEF OF ANOTHER LAW ENFORCEMENT AGENCY IN THE
8 STATE SHALL FUNCTION AS THE LAW ENFORCEMENT OFFICER OF THE SAME RANK
9 ON THE HEARING BOARD.

10 (II) IF THE CHIEF OF A STATE LAW ENFORCEMENT AGENCY IS
11 UNDER INVESTIGATION, THE GOVERNOR SHALL APPOINT THE CHIEF OF ANOTHER
12 LAW ENFORCEMENT AGENCY TO FUNCTION AS THE LAW ENFORCEMENT OFFICER
13 OF THE SAME RANK ON THE HEARING BOARD.

14 (III) IF THE CHIEF OF A LAW ENFORCEMENT AGENCY OF A COUNTY
15 OR MUNICIPAL CORPORATION IS UNDER INVESTIGATION, THE OFFICIAL
16 AUTHORIZED TO APPOINT THE CHIEF'S SUCCESSOR SHALL APPOINT THE CHIEF OF
17 ANOTHER LAW ENFORCEMENT AGENCY TO FUNCTION AS THE LAW ENFORCEMENT
18 OFFICER OF THE SAME RANK ON THE HEARING BOARD.

19 (IV) IF THE CHIEF OF A STATE LAW ENFORCEMENT AGENCY OR THE
20 CHIEF OF A LAW ENFORCEMENT AGENCY OF A COUNTY OR MUNICIPAL
21 CORPORATION IS UNDER INVESTIGATION, THE OFFICIAL AUTHORIZED TO APPOINT
22 THE CHIEF'S SUCCESSOR, OR THAT OFFICIAL'S DESIGNEE, SHALL FUNCTION AS THE
23 CHIEF FOR PURPOSES OF THIS SUBTITLE.

24 (4) (I) A LAW ENFORCEMENT AGENCY OR THE AGENCY'S SUPERIOR
25 GOVERNMENTAL AUTHORITY THAT HAS RECOGNIZED AND CERTIFIED AN
26 EXCLUSIVE COLLECTIVE BARGAINING REPRESENTATIVE MAY NEGOTIATE WITH THE
27 REPRESENTATIVE AN ALTERNATIVE METHOD OF FORMING A HEARING BOARD.

28 (II) A LAW ENFORCEMENT OFFICER MAY ELECT THE ALTERNATIVE
29 METHOD OF FORMING A HEARING BOARD IF:

30 1. THE LAW ENFORCEMENT OFFICER WORKS IN A LAW
31 ENFORCEMENT AGENCY DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH;
32 AND

33 2. THE LAW ENFORCEMENT OFFICER IS INCLUDED IN THE
34 COLLECTIVE BARGAINING UNIT.

35 (III) THE LAW ENFORCEMENT AGENCY SHALL NOTIFY THE LAW
36 ENFORCEMENT OFFICER IN WRITING BEFORE A HEARING BOARD IS FORMED THAT
37 THE LAW ENFORCEMENT OFFICER MAY ELECT AN ALTERNATIVE METHOD OF
38 FORMING A HEARING BOARD IF ONE HAS BEEN NEGOTIATED UNDER THIS
39 PARAGRAPH.

1 (IV) IF THE LAW ENFORCEMENT OFFICER ELECTS THE
2 ALTERNATIVE METHOD, THAT METHOD SHALL BE USED TO FORM THE HEARING
3 BOARD.

4 (V) AN AGENCY OR EXCLUSIVE COLLECTIVE BARGAINING
5 REPRESENTATIVE MAY NOT REQUIRE A LAW ENFORCEMENT OFFICER TO ELECT AN
6 ALTERNATIVE METHOD OF FORMING A HEARING BOARD.

7 (VI) IF THE LAW ENFORCEMENT OFFICER HAS BEEN OFFERED
8 SUMMARY PUNISHMENT, AN ALTERNATIVE METHOD OF FORMING A HEARING BOARD
9 MAY NOT BE USED.

10 (VII) THIS PARAGRAPH IS NOT SUBJECT TO BINDING ARBITRATION.

11 (D) SUBPOENAS.

12 (1) IN CONNECTION WITH A DISCIPLINARY HEARING, THE CHIEF OR
13 HEARING BOARD MAY ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE AND
14 TESTIMONY OF WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS, RECORDS,
15 AND DOCUMENTS AS RELEVANT OR NECESSARY.

16 (2) THE SUBPOENAS MAY BE SERVED WITHOUT COST IN ACCORDANCE
17 WITH THE MARYLAND RULES THAT RELATE TO SERVICE OF PROCESS ISSUED BY A
18 COURT.

19 (3) EACH PARTY MAY REQUEST THE CHIEF OR HEARING BOARD TO
20 ISSUE A SUBPOENA OR ORDER UNDER THIS SUBTITLE.

21 (4) IN CASE OF DISOBEDIENCE OR REFUSAL TO OBEY A SUBPOENA
22 SERVED UNDER THIS SUBSECTION, THE CHIEF OR HEARING BOARD MAY APPLY
23 WITHOUT COST TO THE CIRCUIT COURT OF A COUNTY WHERE THE SUBPOENAED
24 PARTY RESIDES OR CONDUCTS BUSINESS, FOR AN ORDER TO COMPEL THE
25 ATTENDANCE AND TESTIMONY OF THE WITNESS OR THE PRODUCTION OF THE
26 BOOKS, PAPERS, RECORDS, AND DOCUMENTS.

27 (5) ON A FINDING THAT THE ATTENDANCE AND TESTIMONY OF THE
28 WITNESS OR THE PRODUCTION OF THE BOOKS, PAPERS, RECORDS, AND DOCUMENTS
29 IS RELEVANT OR NECESSARY:

30 (I) THE COURT MAY ISSUE WITHOUT COST AN ORDER THAT
31 REQUIRES THE ATTENDANCE AND TESTIMONY OF WITNESSES OR THE PRODUCTION
32 OF BOOKS, PAPERS, RECORDS, AND DOCUMENTS; AND

33 (II) FAILURE TO OBEY THE ORDER MAY BE PUNISHED BY THE
34 COURT AS CONTEMPT.

35 (E) CONDUCT OF HEARING.

36 (1) THE HEARING SHALL BE CONDUCTED BY A HEARING BOARD.

1 (2) THE HEARING BOARD SHALL GIVE THE LAW ENFORCEMENT AGENCY
2 AND LAW ENFORCEMENT OFFICER AMPLE OPPORTUNITY TO PRESENT EVIDENCE
3 AND ARGUMENT ABOUT THE ISSUES INVOLVED.

4 (3) THE LAW ENFORCEMENT AGENCY AND LAW ENFORCEMENT
5 OFFICER MAY BE REPRESENTED BY COUNSEL.

6 (4) EACH PARTY HAS THE RIGHT TO CROSS-EXAMINE WITNESSES WHO
7 TESTIFY AND EACH PARTY MAY SUBMIT REBUTTAL EVIDENCE.

8 (F) EVIDENCE.

9 (1) EVIDENCE WITH PROBATIVE VALUE THAT IS COMMONLY ACCEPTED
10 BY REASONABLE AND PRUDENT INDIVIDUALS IN THE CONDUCT OF THEIR AFFAIRS
11 IS ADMISSIBLE AND SHALL BE GIVEN PROBATIVE EFFECT.

12 (2) THE HEARING BOARD SHALL GIVE EFFECT TO THE RULES OF
13 PRIVILEGE RECOGNIZED BY LAW AND SHALL EXCLUDE INCOMPETENT, IRRELEVANT,
14 IMMATERIAL, AND UNDULY REPETITIOUS EVIDENCE.

15 (3) EACH RECORD OR DOCUMENT THAT A PARTY DESIRES TO USE SHALL
16 BE OFFERED AND MADE A PART OF THE RECORD.

17 (4) DOCUMENTARY EVIDENCE MAY BE RECEIVED IN THE FORM OF
18 COPIES OR EXCERPTS, OR BY INCORPORATION BY REFERENCE.

19 (G) JUDICIAL NOTICE.

20 (1) THE HEARING BOARD MAY TAKE NOTICE OF:

21 (I) JUDICIALLY COGNIZABLE FACTS; AND

22 (II) GENERAL, TECHNICAL, OR SCIENTIFIC FACTS WITHIN ITS
23 SPECIALIZED KNOWLEDGE.

24 (2) THE HEARING BOARD SHALL:

25 (I) NOTIFY EACH PARTY OF THE FACTS SO NOTICED EITHER
26 BEFORE OR DURING THE HEARING, OR BY REFERENCE IN PRELIMINARY REPORTS OR
27 OTHERWISE; AND

28 (II) GIVE EACH PARTY AN OPPORTUNITY AND REASONABLE TIME
29 TO CONTEST THE FACTS SO NOTICED.

30 (3) THE HEARING BOARD MAY UTILIZE ITS EXPERIENCE, TECHNICAL
31 COMPETENCE, AND SPECIALIZED KNOWLEDGE IN THE EVALUATION OF THE
32 EVIDENCE PRESENTED.

33 (H) OATHS.

1 (1) WITH RESPECT TO THE SUBJECT OF A HEARING CONDUCTED UNDER
2 THIS SUBTITLE, THE CHIEF SHALL ADMINISTER OATHS OR AFFIRMATIONS AND
3 EXAMINE INDIVIDUALS UNDER OATH.

4 (2) IN CONNECTION WITH A DISCIPLINARY HEARING, THE CHIEF OR A
5 HEARING BOARD MAY ADMINISTER OATHS.

6 (I) WITNESS FEES AND EXPENSES.

7 (1) WITNESS FEES AND MILEAGE, IF CLAIMED, SHALL BE ALLOWED THE
8 SAME AS FOR TESTIMONY IN A CIRCUIT COURT.

9 (2) WITNESS FEES, MILEAGE, AND THE ACTUAL EXPENSES
10 NECESSARILY INCURRED IN SECURING THE ATTENDANCE OF WITNESSES AND THEIR
11 TESTIMONY SHALL BE ITEMIZED AND PAID BY THE LAW ENFORCEMENT AGENCY.

12 (J) OFFICIAL RECORD.

13 AN OFFICIAL RECORD, INCLUDING TESTIMONY AND EXHIBITS, SHALL BE KEPT
14 OF THE HEARING.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 27, §§ 727(d)(1) and (2), 728(b)(13), and 730(a) and
17 (c) through (j).

18 Subsection (a)(1) of this section is revised to state explicitly what was
19 implicit in the former law, *i.e.* that the law enforcement officer is entitled to
20 a hearing on the issues by a hearing board under this section.

21 In subsection (a)(2) of this section, the former reference to being "charged"
22 with a felony is deleted as implicit in the reference to being "convicted" of
23 a felony.

24 Throughout subsection (c)(4) of this section, references to an "alternative"
25 method of forming a hearing board are substituted for the former
26 references to an "alternate" method to use the proper word in the context of
27 this provision.

28 In subsection (c)(4)(ii) of this section, the former phrase "instead of the
29 method described in paragraph (1) of this subsection" is deleted as
30 surplusage.

31 Throughout subsection (d) of this section, references to "subpoenas" are
32 substituted for the former references to "summonses" for consistency with
33 Maryland Rule 2-510 and similar provisions of the Code.

34 In subsection (h)(1) of this section, the former reference to an "officer
35 designated by the chief" is deleted as surplusage in light of the defined
36 term "chief", which includes a designee of the chief.

1 Defined terms: "Chief" § 3-101

2 "County" § 1-101

3 "Hearing" § 3-101

4 "Hearing board" § 3-101

5 "Law enforcement officer" § 3-101

6 3-108. DISPOSITION OF ADMINISTRATIVE ACTION.

7 (A) IN GENERAL.

8 (1) A DECISION, ORDER, OR ACTION TAKEN AS A RESULT OF A HEARING
9 UNDER § 3-107 OF THIS SUBTITLE SHALL BE IN WRITING AND ACCOMPANIED BY
10 FINDINGS OF FACT.

11 (2) THE FINDINGS OF FACT SHALL CONSIST OF A CONCISE STATEMENT
12 ON EACH ISSUE IN THE CASE.

13 (3) A FINDING OF NOT GUILTY TERMINATES THE ACTION.

14 (4) IF THE HEARING BOARD MAKES A FINDING OF GUILT, THE HEARING
15 BOARD SHALL:

16 (I) RECONVENE THE HEARING;

17 (II) RECEIVE EVIDENCE; AND

18 (III) CONSIDER THE LAW ENFORCEMENT OFFICER'S PAST JOB
19 PERFORMANCE AND OTHER RELEVANT INFORMATION AS FACTORS BEFORE MAKING
20 RECOMMENDATIONS TO THE CHIEF.

21 (5) A COPY OF THE DECISION OR ORDER, FINDINGS OF FACT,
22 CONCLUSIONS, AND WRITTEN RECOMMENDATIONS FOR ACTION SHALL BE
23 DELIVERED OR MAILED PROMPTLY TO:

24 (I) THE LAW ENFORCEMENT OFFICER OR THE LAW
25 ENFORCEMENT OFFICER'S COUNSEL OR REPRESENTATIVE OF RECORD; AND

26 (II) THE CHIEF.

27 (B) RECOMMENDATION OF PENALTY.

28 (1) AFTER A DISCIPLINARY HEARING AND A FINDING OF GUILT, THE
29 HEARING BOARD MAY RECOMMEND THE PENALTY IT CONSIDERS APPROPRIATE
30 UNDER THE CIRCUMSTANCES, INCLUDING DEMOTION, DISMISSAL, TRANSFER, LOSS
31 OF PAY, REASSIGNMENT, OR OTHER SIMILAR ACTION THAT IS CONSIDERED
32 PUNITIVE.

33 (2) THE RECOMMENDATION OF A PENALTY SHALL BE IN WRITING.

34 (C) FINAL DECISION OF HEARING BOARD.

1 (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE
2 DECISION OF THE HEARING BOARD AS TO FINDINGS OF FACT AND ANY PENALTY IS
3 FINAL IF:

4 (I) A CHIEF IS AN EYEWITNESS TO THE INCIDENT UNDER
5 INVESTIGATION; OR

6 (II) A LAW ENFORCEMENT AGENCY OR THE AGENCY'S SUPERIOR
7 GOVERNMENTAL AUTHORITY HAS AGREED WITH AN EXCLUSIVE COLLECTIVE
8 BARGAINING REPRESENTATIVE RECOGNIZED OR CERTIFIED UNDER APPLICABLE
9 LAW THAT THE DECISION IS FINAL.

10 (2) THE DECISION OF THE HEARING BOARD THEN MAY BE APPEALED IN
11 ACCORDANCE WITH § 3-109 OF THIS SUBTITLE.

12 (3) PARAGRAPH (1)(II) OF THIS SUBSECTION IS NOT SUBJECT TO
13 BINDING ARBITRATION.

14 (D) REVIEW BY CHIEF AND FINAL ORDER.

15 (1) WITHIN 30 DAYS AFTER RECEIPT OF THE RECOMMENDATIONS OF
16 THE HEARING BOARD, THE CHIEF SHALL:

17 (I) REVIEW THE FINDINGS, CONCLUSIONS, AND
18 RECOMMENDATIONS OF THE HEARING BOARD; AND

19 (II) ISSUE A FINAL ORDER.

20 (2) THE FINAL ORDER AND DECISION OF THE CHIEF IS BINDING AND
21 THEN MAY BE APPEALED IN ACCORDANCE WITH § 3-109 OF THIS SUBTITLE.

22 (3) THE RECOMMENDATION OF A PENALTY BY THE HEARING BOARD IS
23 NOT BINDING ON THE CHIEF.

24 (4) THE CHIEF SHALL CONSIDER THE LAW ENFORCEMENT OFFICER'S
25 PAST JOB PERFORMANCE AS A FACTOR BEFORE IMPOSING A PENALTY.

26 (5) THE CHIEF MAY INCREASE THE RECOMMENDED PENALTY OF THE
27 HEARING BOARD ONLY IF THE CHIEF PERSONALLY:

28 (I) REVIEWS THE ENTIRE RECORD OF THE PROCEEDINGS OF THE
29 HEARING BOARD;

30 (II) MEETS WITH THE LAW ENFORCEMENT OFFICER AND ALLOWS
31 THE LAW ENFORCEMENT OFFICER TO BE HEARD ON THE RECORD;

32 (III) DISCLOSES AND PROVIDES IN WRITING TO THE LAW
33 ENFORCEMENT OFFICER, AT LEAST 10 DAYS BEFORE THE MEETING, ANY ORAL OR
34 WRITTEN COMMUNICATION NOT INCLUDED IN THE RECORD OF THE HEARING
35 BOARD ON WHICH THE DECISION TO CONSIDER INCREASING THE PENALTY IS
36 WHOLLY OR PARTLY BASED; AND

1 (IV) STATES ON THE RECORD THE SUBSTANTIAL EVIDENCE RELIED
2 ON TO SUPPORT THE INCREASE OF THE RECOMMENDED PENALTY.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 27, § 731.

5 In subsections (b)(1) and (2), (c)(1), and (d)(3) of this section, the reference
6 to a "penalty" is substituted for the former reference to a "punishment" for
7 consistency throughout this section.

8 In subsection (d)(4) of this section, the reference to the "chief" is
9 substituted for the former reference to the "person who may take any
10 disciplinary action following any hearing in which there is a finding of
11 guilt" for specificity and to use the defined term.

12 Defined terms: "Chief" § 3-101

13 "Hearing" § 3-101

14 "Hearing board" § 3-101

15 "Law enforcement officer" § 3-101

16 3-109. JUDICIAL REVIEW.

17 (A) BY CIRCUIT COURT.

18 AN APPEAL FROM A DECISION MADE UNDER § 3-108 OF THIS SUBTITLE SHALL
19 BE TAKEN TO THE CIRCUIT COURT FOR THE COUNTY IN ACCORDANCE WITH
20 MARYLAND RULE 7-202.

21 (B) BY COURT OF SPECIAL APPEALS.

22 A PARTY AGGRIEVED BY A DECISION OF A COURT UNDER THIS SUBTITLE MAY
23 APPEAL TO THE COURT OF SPECIAL APPEALS.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 27, § 732.

26 Defined term: "County" § 1-101

27 3-110. EXPUNGEMENT OF RECORD OF FORMAL COMPLAINT.

28 ON WRITTEN REQUEST, A LAW ENFORCEMENT OFFICER MAY HAVE EXPUNGED
29 FROM ANY FILE THE RECORD OF A FORMAL COMPLAINT MADE AGAINST THE LAW
30 ENFORCEMENT OFFICER IF:

31 (1) (I) THE LAW ENFORCEMENT AGENCY THAT INVESTIGATED THE
32 COMPLAINT:

33 1. EXONERATED THE LAW ENFORCEMENT OFFICER OF ALL
34 CHARGES IN THE COMPLAINT; OR

1 2. DETERMINED THAT THE CHARGES WERE UNSUSTAINED
2 OR UNFOUNDED; OR

3 (II) A HEARING BOARD ACQUITTED THE LAW ENFORCEMENT
4 OFFICER, DISMISSED THE ACTION, OR MADE A FINDING OF NOT GUILTY; AND

5 (2) AT LEAST 3 YEARS HAVE PASSED SINCE THE FINAL DISPOSITION BY
6 THE LAW ENFORCEMENT AGENCY OR HEARING BOARD.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 27, § 728(b)(12)(ii).

9 In item (2) of this section, the reference to the "final disposition" by the law
10 enforcement agency or hearing board is substituted for the former
11 reference to "findings" for clarity because the law enforcement agency or
12 hearing board do more than make "findings" in this situation.

13 Defined terms: "Hearing board" § 3-101

14 "Law enforcement officer" § 3-101

15 3-111. SUMMARY PUNISHMENT.

16 (A) AUTHORIZED.

17 THIS SUBTITLE DOES NOT PROHIBIT SUMMARY PUNISHMENT BY HIGHER
18 RANKING LAW ENFORCEMENT OFFICERS AS DESIGNATED BY THE CHIEF.

19 (B) IMPOSITION.

20 (1) SUMMARY PUNISHMENT MAY BE IMPOSED FOR MINOR VIOLATIONS
21 OF LAW ENFORCEMENT AGENCY RULES AND REGULATIONS IF:

22 (I) THE FACTS THAT CONSTITUTE THE MINOR VIOLATION ARE NOT
23 IN DISPUTE;

24 (II) THE LAW ENFORCEMENT OFFICER WAIVES THE HEARING
25 PROVIDED UNDER THIS SUBTITLE; AND

26 (III) THE LAW ENFORCEMENT OFFICER ACCEPTS THE PUNISHMENT
27 IMPOSED BY THE HIGHEST RANKING LAW ENFORCEMENT OFFICER, OR INDIVIDUAL
28 ACTING IN THAT CAPACITY, OF THE UNIT TO WHICH THE LAW ENFORCEMENT
29 OFFICER IS ATTACHED.

30 (2) SUMMARY PUNISHMENT IMPOSED UNDER THIS SUBSECTION MAY
31 NOT EXCEED SUSPENSION OF 3 DAYS WITHOUT PAY OR A FINE OF \$150.

32 (C) REFUSAL.

33 (1) IF A LAW ENFORCEMENT OFFICER IS OFFERED SUMMARY
34 PUNISHMENT IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION AND
35 REFUSES:

1 (I) THE CHIEF MAY CONVENE A HEARING BOARD OF ONE OR MORE
2 MEMBERS; AND

3 (II) THE HEARING BOARD HAS ONLY THE AUTHORITY TO
4 RECOMMEND THE SANCTIONS PROVIDED IN THIS SECTION FOR SUMMARY
5 PUNISHMENT.

6 (2) IF A SINGLE MEMBER HEARING BOARD IS CONVENED:

7 (I) THE MEMBER NEED NOT BE OF THE SAME RANK AS THE LAW
8 ENFORCEMENT OFFICER; BUT

9 (II) ALL OTHER PROVISIONS OF THIS SUBTITLE APPLY.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 27, §§ 727(d)(3) and (f) and 734A(1) and, as it
12 related to summary suspension, the first sentence of § 734A.

13 In subsection (a) of this section, the defined term "chief" is substituted for
14 the former reference to the "head of a law enforcement agency" for
15 consistent use of the defined term throughout this subtitle.

16 In the introductory language of subsection (b)(1) of this section, the
17 reference to "law enforcement agency" rules and regulations is substituted
18 for the former reference to "departmental" rules and regulations for
19 consistency with terminology used throughout this subtitle.

20 Defined terms: "Chief" § 3-101

21 "Hearing" § 3-101

22 "Hearing board" § 3-101

23 "Law enforcement officer" § 3-101

24 3-112. EMERGENCY SUSPENSION.

25 (A) AUTHORIZED.

26 THIS SUBTITLE DOES NOT PROHIBIT EMERGENCY SUSPENSION BY HIGHER
27 RANKING LAW ENFORCEMENT OFFICERS AS DESIGNATED BY THE CHIEF.

28 (B) IMPOSITION -- WITH PAY.

29 (1) THE CHIEF MAY IMPOSE EMERGENCY SUSPENSION WITH PAY IF IT
30 APPEARS THAT THE ACTION IS IN THE BEST INTEREST OF THE PUBLIC AND THE LAW
31 ENFORCEMENT AGENCY.

32 (2) IF THE LAW ENFORCEMENT OFFICER IS SUSPENDED WITH PAY, THE
33 CHIEF MAY SUSPEND THE POLICE POWERS OF THE LAW ENFORCEMENT OFFICER
34 AND REASSIGN THE LAW ENFORCEMENT OFFICER TO RESTRICTED DUTIES PENDING:

35 (I) A DETERMINATION BY A COURT WITH RESPECT TO A CRIMINAL
36 VIOLATION; OR

1 (II) A FINAL DETERMINATION BY A HEARING BOARD WITH
2 RESPECT TO A LAW ENFORCEMENT AGENCY VIOLATION.

3 (3) A LAW ENFORCEMENT OFFICER WHO IS SUSPENDED UNDER THIS
4 SUBSECTION IS ENTITLED TO A PROMPT HEARING.

5 (C) SAME -- WITHOUT PAY.

6 (1) IF A LAW ENFORCEMENT OFFICER IS CHARGED WITH A FELONY, THE
7 CHIEF MAY IMPOSE AN EMERGENCY SUSPENSION OF POLICE POWERS WITHOUT PAY.

8 (2) A LAW ENFORCEMENT OFFICER WHO IS SUSPENDED UNDER
9 PARAGRAPH (1) OF THIS SUBSECTION IS ENTITLED TO A PROMPT HEARING.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 27, § 734A(2), (3), and, as it related to emergency
12 suspension, the first sentence of § 734A.

13 In subsection (a) of this section, the defined term "chief" is substituted for
14 the former reference to the "head of a law enforcement agency" for
15 consistent use of the defined term throughout this subtitle.

16 In subsection (b)(2)(i) of this section, the former reference to a court "of
17 competent jurisdiction" is deleted as surplusage.

18 In subsection (b)(2)(ii) of this section, the reference to a "law enforcement
19 agency" violation is substituted for the former reference to a
20 "departmental" violation for consistency with terminology used throughout
21 this subtitle.

22 Defined terms: "Chief" § 3-101

23 "Hearing" § 3-101

24 "Hearing board" § 3-101

25 "Law enforcement officer" § 3-101

26 3-113. FALSE STATEMENT, REPORT, OR COMPLAINT.

27 (A) PROHIBITED.

28 A PERSON MAY NOT KNOWINGLY MAKE A FALSE STATEMENT, REPORT, OR
29 COMPLAINT DURING AN INVESTIGATION OR PROCEEDING CONDUCTED UNDER THIS
30 SUBTITLE.

31 (B) PENALTY.

32 A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO THE PENALTIES OF §
33 9-501 OF THE CRIMINAL LAW ARTICLE.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 27, § 734C.

1 Defined term: "Person" § 1-101

2 SUBTITLE 2. POLICE TRAINING COMMISSION.

3 3-201. DEFINITIONS.

4 (A) IN GENERAL.

5 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

6 REVISOR'S NOTE: This subsection is new language derived without
7 substantive change from the introductory language of former Art. 41, §
8 4-201(a).

9 In this subsection and throughout this subtitle, references to this "subtitle"
10 are substituted for former references to this "section" to reflect the revision
11 of former Art. 41, § 4-201 as this subtitle.

12 (B) COMMISSION.

13 "COMMISSION" MEANS THE POLICE TRAINING COMMISSION.

14 REVISOR'S NOTE: This subsection is new language derived without
15 substantive change from former Art. 41, § 4-201(a)(2).

16 The former reference to "officers or employees ... acting on ... behalf" of the
17 Commission is deleted for consistency with similar provisions in other
18 revised articles of the Code. *See, e.g.*, BOP §§ 16-101(g) and 17-101(d), CS
19 § 8-201(c), ED §§ 10-101(b) and 16-502(d), EN §§ 5-1201(b) and 6-801(e),
20 HG §§ 5-301(b) and 13-101(b), LE § 9-101(d), and SG §§ 9-101(c) and
21 9-201(b).

22 (C) DEPARTMENT.

23 "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC SAFETY AND
24 CORRECTIONAL SERVICES.

25 REVISOR'S NOTE: This subsection is new language added to avoid repetition
26 of the full title "Department of Public Safety and Correctional Services".

27 (D) LAW ENFORCEMENT AGENCY.

28 (1) "LAW ENFORCEMENT AGENCY" MEANS A GOVERNMENTAL POLICE
29 FORCE, SHERIFF'S OFFICE, OR SECURITY FORCE OR LAW ENFORCEMENT
30 ORGANIZATION OF THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION THAT BY
31 STATUTE, ORDINANCE, OR COMMON LAW IS AUTHORIZED TO ENFORCE THE
32 GENERAL CRIMINAL LAWS OF THE STATE.

33 (2) "LAW ENFORCEMENT AGENCY" DOES NOT INCLUDE MEMBERS OF
34 THE MARYLAND NATIONAL GUARD WHO:

1 (I) ARE UNDER THE CONTROL AND JURISDICTION OF THE
2 MILITARY DEPARTMENT;

3 (II) ARE ASSIGNED TO THE MILITARY PROPERTY DESIGNATED AS
4 THE GLENN L. MARTIN STATE AIRPORT; AND

5 (III) ARE CHARGED WITH EXERCISING POLICE POWERS IN AND FOR
6 THE GLENN L. MARTIN STATE AIRPORT.

7 REVISOR'S NOTE: This subsection is new language derived without
8 substantive change from former Art. 41, § 4-201(a)(4).

9 Throughout this subsection, the term "law enforcement agency" is
10 substituted for the former reference to a "law enforcement unit" for
11 consistency with terminology used throughout this article. *See, e.g.,* §
12 2-101 of this article.

13 In paragraph (1) of this subsection, the reference to a sheriff's "office" is
14 substituted for the former reference to a sheriff's "department" to use
15 common terminology. *See, e.g.,* § 3-101(e)(1)(ii)7 of this title.

16 Defined term: "County" § 1-101

17 (E) POLICE OFFICER.

18 (1) "POLICE OFFICER" MEANS AN INDIVIDUAL WHO:

19 (I) IS AUTHORIZED TO ENFORCE THE GENERAL CRIMINAL LAWS
20 OF THE STATE; AND

21 (II) IS A MEMBER OF ONE OF THE FOLLOWING LAW ENFORCEMENT
22 AGENCIES:

23 1. THE DEPARTMENT OF STATE POLICE;

24 2. THE POLICE DEPARTMENT OF BALTIMORE CITY;

25 3. THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A
26 COUNTY;

27 4. THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A
28 MUNICIPAL CORPORATION;

29 5. THE MARYLAND TRANSIT ADMINISTRATION POLICE
30 FORCE;

31 6. THE MARYLAND TRANSPORTATION AUTHORITY POLICE;

32 7. THE POLICE FORCES OF THE UNIVERSITY SYSTEM OF
33 MARYLAND;

1 1. IS UNDER THE CONTROL AND JURISDICTION OF THE
2 MILITARY DEPARTMENT;

3 2. IS ASSIGNED TO THE MILITARY PROPERTY DESIGNATED
4 AS THE GLENN L. MARTIN STATE AIRPORT; AND

5 3. IS CHARGED WITH EXERCISING POLICE POWERS IN AND
6 FOR THE GLENN L. MARTIN STATE AIRPORT.

7 REVISOR'S NOTE: This subsection is new language derived without
8 substantive change from former Art. 41, § 4-201(a)(8)(i), (iii), and the first
9 and second sentences of (ii).

10 In the introductory language of paragraph (1) and in paragraph (3)(ii) of
11 this subsection, the reference to an "individual" is substituted for the
12 former reference to a "person" because only an individual, and not the
13 other entities included in the defined term "person", can be a member of a
14 law enforcement agency or can be appointed or employed by a government
15 to exercise supervisory authority. *See* § 1-101 of this article for the
16 definition of "person".

17 In paragraph (1)(ii)4 of this subsection, the reference to a "municipal
18 corporation" is substituted for the former reference to an "incorporated city
19 or town" to conform to Md. Constitution, Art. XI-E.

20 In paragraph (1)(ii)6 of this subsection, the former reference to the
21 "Maryland Port Administration Police Force of the Department of
22 Transportation" is deleted as unnecessary because this police force has
23 been consolidated into the Maryland Transportation Authority Police.

24 Paragraph (1)(ii)7 of this subsection is revised to reflect the proper name of
25 the University System of Maryland and to indicate that each
26 college/university in the University System of Maryland has a separate
27 police force.

28 In paragraph (1)(ii)9 of this subsection, the reference to the sheriff's
29 "office" is substituted for the former reference to the sheriff's "department"
30 to use common terminology. *See, e.g.*, § 3-101(e)(1)(ii)7 of this title.

31 Also in paragraph (1)(ii)9 of this subsection, the former reference to
32 "Baltimore City" is deleted as included in the reference to "county".

33 In paragraph (1)(ii)10 of this subsection, the general reference to the
34 "police forces" of the Department of Natural Resources is substituted for
35 the former specific references to the "Natural Resources Police Force" and
36 the "Forest and Park Service Police Force" for consistency with § 3-101(e)
37 of this title.

38 In paragraph (1)(ii)11 and 12 of this subsection, the reference to the
39 "police" force is substituted for the former reference to the "security" force

1 for consistency within this paragraph and with § 3-101(e) of this title.

2 In paragraph (2)(ii) of this subsection, the reference to a "deputy State fire
3 marshal" is substituted for the former reference to a "full-time
4 investigative and inspection assistant of the Office of the State Fire
5 Marshal" to reflect the current title of the position.

6 Defined terms: "County" § 1-101

7 "Department" § 3-201

8 "Law enforcement agency" § 3-201

9 "Police officer" § 3-201

10 "State" § 1-101

11 (F) SECRETARY.

12 "SECRETARY" MEANS THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL
13 SERVICES.

14 REVISOR'S NOTE: This subsection is new language added to avoid repetition
15 of the full title "Secretary of Public Safety and Correctional Services".

16 REVISOR'S NOTE TO SECTION:

17 Former Art. 41, § 4-201(a)(3), which defined the term "county" to mean
18 any county that has or will have a law enforcement unit within its
19 jurisdiction, is deleted as unnecessary. The term "county" as used in this
20 subtitle is used in the general sense in which it is defined in § 1-101 of this
21 article.

22 Former Art. 41, § 4-201(a)(5), which defined the term "municipality" to
23 mean any incorporated city of any class that has or will have a law
24 enforcement unit within its jurisdiction, is deleted as unnecessary. The
25 term "municipality" was used throughout the former law in the general
26 sense in which the term "municipal corporation" is generally used in
27 revised articles of the Code. Therefore, the term "municipal corporation" is
28 substituted for the former term "municipality" throughout this section and
29 this subtitle to conform to Md. Constitution, Art. XI-E.

30 3-202. ESTABLISHED.

31 THERE IS A POLICE TRAINING COMMISSION IN THE DEPARTMENT.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from the introductory language of former Art. 41, § 4-201(b), as it
34 related to establishing the Commission.

35 It is set forth as a separate section for emphasis.

36 Defined term: "Department" § 3-201

1 3-203. MEMBERSHIP.

2 (A) COMPOSITION; APPOINTMENT OF MEMBERS.

3 (1) THE COMMISSION CONSISTS OF 15 MEMBERS.

4 (2) OF THE 15 MEMBERS OF THE COMMISSION:

5 (I) ONE SHALL BE THE PRESIDENT OF THE MARYLAND CHIEFS OF
6 POLICE ASSOCIATION;

7 (II) ONE SHALL BE THE PRESIDENT OF THE MARYLAND SHERIFFS
8 ASSOCIATION;

9 (III) ONE SHALL BE THE PRESIDENT OF THE MARYLAND LAW
10 ENFORCEMENT OFFICERS, INC.;

11 (IV) ONE SHALL BE THE ATTORNEY GENERAL OF THE STATE;

12 (V) ONE SHALL BE THE SECRETARY OF STATE POLICE;

13 (VI) ONE SHALL BE THE POLICE COMMISSIONER OF BALTIMORE
14 CITY;

15 (VII) ONE SHALL BE THE CHANCELLOR OF THE UNIVERSITY SYSTEM
16 OF MARYLAND;

17 (VIII) ONE SHALL BE THE AGENT IN CHARGE OF THE BALTIMORE
18 OFFICE OF THE F.B.I.;

19 (IX) ONE SHALL BE THE PRESIDENT OF THE EASTERN SHORE
20 POLICE ASSOCIATION;

21 (X) ONE SHALL REPRESENT THE MARYLAND STATE LODGE OF
22 FRATERNAL ORDER OF POLICE;

23 (XI) ONE SHALL BE THE DEPUTY SECRETARY OF PUBLIC SAFETY
24 AND CORRECTIONAL SERVICES;

25 (XII) ONE SHALL BE THE CHAIRMAN OF THE MARYLAND MUNICIPAL
26 LEAGUE POLICE EXECUTIVE ASSOCIATION; AND

27 (XIII) THREE SHALL BE POLICE OFFICIALS OF THE STATE APPOINTED
28 UNDER SUBSECTION (B) OF THIS SECTION.

29 (B) POLICE OFFICIAL MEMBERS.

30 (1) THE SECRETARY SHALL APPOINT THE THREE POLICE OFFICIALS TO
31 BE MEMBERS OF THE COMMISSION WITH THE APPROVAL OF THE GOVERNOR AND
32 THE ADVICE AND CONSENT OF THE SENATE.

1 (2) THE THREE MEMBERS APPOINTED UNDER PARAGRAPH (1) OF THIS
2 SUBSECTION SHALL REPRESENT DIFFERENT GEOGRAPHIC AREAS OF THE STATE.

3 (C) TENURE; VACANCIES.

4 (1) THE TERM OF A MEMBER WHO IS APPOINTED UNDER SUBSECTION
5 (B) OF THIS SECTION IS 3 YEARS.

6 (2) THE TERMS OF THE MEMBERS WHO ARE APPOINTED UNDER
7 SUBSECTION (B) OF THIS SECTION ARE STAGGERED AS REQUIRED BY THE TERMS
8 PROVIDED FOR MEMBERS OF THE COMMISSION ON OCTOBER 1, 2003.

9 (3) AT THE END OF A TERM, A MEMBER WHO IS APPOINTED UNDER
10 SUBSECTION (B) OF THIS SECTION CONTINUES TO SERVE UNTIL A SUCCESSOR IS
11 APPOINTED AND QUALIFIES.

12 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
13 ONLY FOR THE REMAINDER OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED
14 AND QUALIFIES.

15 (D) DESIGNATION OF REPRESENTATIVES.

16 EXCEPT FOR THE THREE MEMBERS APPOINTED BY THE SECRETARY UNDER
17 SUBSECTION (B) OF THIS SECTION, A MEMBER OF THE COMMISSION MAY SERVE
18 PERSONALLY AT A COMMISSION MEETING OR MAY DESIGNATE A REPRESENTATIVE
19 FROM THE MEMBER'S UNIT, AGENCY, OR ASSOCIATION WHO MAY ACT AT ANY
20 MEETING TO THE SAME EFFECT AS IF THE MEMBER WERE PERSONALLY PRESENT.

21 REVISOR'S NOTE: Subsections (a), (b), (c)(1) and (2), and (d) of this section are
22 new language derived without substantive change from former Art. 41, §
23 4-201(b)(1) and (2) and, except as it related to establishing the
24 Commission, the introductory language of (b).

25 Subsection (c)(2) of this section is standard language substituted for the
26 former obsolete reference in Art. 41, § 4-201(b)(1) to the initial terms of the
27 three police officials appointed to the Commission. This substitution is not
28 intended to alter the term of any member of the Commission. The terms of
29 the members serving on October 1, 2003, end as follows: (1) one on June 30,
30 2004; (2) one on June 30, 2005; and (3) one on June 30, 2006.

31 Subsection (c)(3) of this section is standard language added to avoid gaps
32 in membership by indicating that a member serves until a successor takes
33 office. This addition is supported by the holdings in *Benson v. Mellor*, 152
34 Md. 481 (1927), and *Grooms v. LaVale Zoning Board*, 27 Md. App. 266
35 (1975).

36 Subsection (c)(4) of this section is also added as standard language. It
37 follows logically from the requirement that there be staggered terms. An
38 inherent aspect of staggered terms is that they must begin and end at set
39 intervals. For circumstances under which subsection (c)(4) of this section

1 applies, *see* General Revisor's Note to article.

2 In subsection (d) of this section, the word "unit" is substituted for the
3 former references to "office", "department", and "university" for brevity.
4 *See* General Revisor's Note to article.

5 Defined terms: "Commission" § 3-201

6 "Secretary" § 3-201

7 3-204. OFFICERS.

8 (A) CHAIRMAN.

9 THE DEPUTY SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES OR
10 THE DEPUTY SECRETARY'S REPRESENTATIVE IS THE CHAIRMAN OF THE
11 COMMISSION.

12 (B) VICE CHAIRMAN.

13 THE COMMISSION ANNUALLY SHALL ELECT A VICE CHAIRMAN FROM AMONG
14 ITS MEMBERS.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from the first sentence and the first clause of the second sentence
17 of former Art. 41, § 4-201(c)(1).

18 In subsection (b) of this section, the former phrase "at its initial
19 organization meeting to be held promptly after the appointment and
20 qualifications of its members" is deleted as obsolete because the
21 Commission has already had its initial organizational meeting.

22 Defined term: "Commission" § 3-201

23 3-205. QUORUM; MEETINGS; COMPENSATION; RECORDS.

24 (A) QUORUM.

25 A MAJORITY OF THE COMMISSION IS A QUORUM.

26 (B) MEETINGS.

27 THE COMMISSION SHALL MEET IN THE STATE AT THE TIMES THAT IT OR ITS
28 CHAIRMAN DETERMINES.

29 (C) COMPENSATION.

30 A MEMBER OF THE COMMISSION:

31 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE
32 COMMISSION; BUT

1 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
2 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

3 (D) RECORDS.

4 THE COMMISSION SHALL:

5 (1) MAINTAIN MINUTES OF ITS MEETINGS AND ANY OTHER RECORDS
6 THAT IT CONSIDERS NECESSARY; AND

7 (2) PROVIDE INFORMATION, ON REQUEST, REGARDING THE BUDGET,
8 ACTIVITIES, AND PROGRAMS OF THE COMMISSION.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 41, § 4-201(c)(2), (3), and the third sentence and
11 second clause of the second sentence of (1).

12 In subsection (a) of this section, the former requirement that a majority of
13 the Commission constitutes a quorum "for the transaction of any business,
14 the performance of any duty, or for the exercise of any of its authority" is
15 deleted as implicit in the use of the term "quorum".

16 The Public Safety Article Review Committee notes, for consideration by the
17 General Assembly, that the meaning of the references to "a majority" of the
18 Commission in subsection (a) of this section is unclear. The Committee is
19 uncertain as to whether this means a majority of the authorized
20 membership of the Commission (*i.e.*, eight members) or a majority of the
21 members of the Commission who are then serving. The General Assembly
22 may wish to clarify the meaning of this provision.

23 Subsection (c)(2) of this section is revised in standard language used to
24 describe the compensation and reimbursement of expenses of members of a
25 board or commission.

26 Defined term: "Commission" § 3-201

27 3-206. STAFF.

28 (A) EXECUTIVE DIRECTOR.

29 (1) WITH THE APPROVAL OF THE SECRETARY, THE COMMISSION SHALL
30 APPOINT AN EXECUTIVE DIRECTOR.

31 (2) THE EXECUTIVE DIRECTOR SHALL PERFORM GENERAL
32 ADMINISTRATIVE AND TRAINING MANAGEMENT FUNCTIONS.

33 (3) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE
34 COMMISSION.

35 (B) DEPUTY DIRECTOR; ADMINISTRATIVE EMPLOYEES.

1 (1) WITH THE APPROVAL OF THE SECRETARY, THE COMMISSION SHALL
2 APPOINT A DEPUTY DIRECTOR AND ANY OTHER EMPLOYEES THAT THE COMMISSION
3 CONSIDERS NECESSARY TO PERFORM GENERAL ADMINISTRATIVE AND TRAINING
4 MANAGEMENT FUNCTIONS.

5 (2) THE DEPUTY DIRECTOR AND OTHER EMPLOYEES APPOINTED UNDER
6 PARAGRAPH (1) OF THIS SUBSECTION SHALL SERVE AT THE PLEASURE OF THE
7 COMMISSION.

8 (C) OTHER EMPLOYEES.

9 WITH THE APPROVAL OF THE SECRETARY, THE COMMISSION SHALL EMPLOY
10 OTHER INDIVIDUALS AS NECESSARY TO CARRY OUT THIS SUBTITLE.

11 (D) COMPENSATION.

12 THE EXECUTIVE DIRECTOR, DEPUTY DIRECTOR, AND OTHER EMPLOYEES OF
13 THE COMMISSION ARE ENTITLED TO RECEIVE COMPENSATION AS ESTABLISHED BY
14 THE COMMISSION IN ACCORDANCE WITH THE STATE BUDGET.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 41, § 4-201(d)(9) and (10).

17 In subsections (a), (b), and (c) of this section, the mandatory language
18 which provides that the Commission "shall" appoint an executive director,
19 a deputy director, and other employees as necessary to perform general
20 administrative and training management functions and "shall" employ
21 other individuals as necessary to carry out this subtitle, is substituted for
22 the former references to the "responsibility" and "duty" of the Commission
23 for consistency with similar provisions in other revised articles of the
24 Code.

25 The Public Safety Article Review Committee notes, for consideration by the
26 General Assembly, that the introductory language in former Art. 41, §
27 4-201(d) refers to the "authority", "responsibility", and "duty" of the
28 Commission. This language gives rise to the issue of whether former Art.
29 41, § 4-201(d)(9) and (10) establish powers (*i.e.*, authority) or duties (*i.e.*,
30 responsibilities). This section has been drafted to create mandatory duties
31 because the word "shall" (which indicates a duty) was used several times in
32 former Art. 41, § 4-201(d)(9). If the General Assembly wishes to make
33 these powers discretionary, the word "may" should be substituted for the
34 word "shall".

35 In subsection (c) of this section, the reference to "individuals" is substituted
36 for the former reference to "persons" because only individuals, and not the
37 other entities included in the defined term "person", can be employed by
38 the Commission. *See* § 1-101 of this article for the definition of "person".

39 Also in subsection (c) of this section, the former reference to approval by
40 the "legislature" is deleted. Because it is unlikely that former Art. 41, §

1 4-201(d)(10) literally contemplated specific approval by the General
2 Assembly of each employee of the Commission, a more reasonable reading
3 of the former provision is to make the compensation of each employee of
4 the Commission subject to the State budget, as provided in subsection (d)
5 of this section.

6 In subsection (d) of this section, the reference to receiving compensation "in
7 accordance with the State budget", in connection with the executive
8 director, the deputy director, and other employees who perform
9 administrative and training management functions, is added to state
10 expressly that which was only implied in the former law.

11 Defined terms: "Commission" § 3-201

12 "Secretary" § 3-201

13 3-207. GENERAL POWERS AND DUTIES OF COMMISSION.

14 SUBJECT TO THE AUTHORITY OF THE SECRETARY, THE COMMISSION HAS THE
15 FOLLOWING POWERS AND DUTIES:

16 (1) TO ESTABLISH STANDARDS FOR THE APPROVAL AND CONTINUATION
17 OF APPROVAL OF SCHOOLS THAT CONDUCT POLICE ENTRANCE-LEVEL AND
18 IN-SERVICE TRAINING COURSES REQUIRED BY THE COMMISSION, INCLUDING
19 STATE, REGIONAL, COUNTY, AND MUNICIPAL TRAINING SCHOOLS;

20 (2) TO APPROVE AND ISSUE CERTIFICATES OF APPROVAL TO POLICE
21 TRAINING SCHOOLS;

22 (3) TO INSPECT POLICE TRAINING SCHOOLS;

23 (4) TO REVOKE, FOR CAUSE, THE APPROVAL OR CERTIFICATE OF
24 APPROVAL ISSUED TO A POLICE TRAINING SCHOOL;

25 (5) TO ESTABLISH THE FOLLOWING FOR POLICE TRAINING SCHOOLS:

26 (I) CURRICULUM;

27 (II) MINIMUM COURSES OF STUDY;

28 (III) ATTENDANCE REQUIREMENTS;

29 (IV) ELIGIBILITY REQUIREMENTS;

30 (V) EQUIPMENT AND FACILITIES;

31 (VI) STANDARDS OF OPERATION; AND

32 (VII) MINIMUM QUALIFICATIONS FOR INSTRUCTORS;

33 (6) TO REQUIRE, FOR ENTRANCE-LEVEL POLICE TRAINING AND AT
34 LEAST EVERY 3 YEARS FOR IN-SERVICE LEVEL POLICE TRAINING CONDUCTED BY

1 THE STATE AND EACH COUNTY AND MUNICIPAL POLICE TRAINING SCHOOL, THAT
 2 THE CURRICULUM AND MINIMUM COURSES OF STUDY INCLUDE SPECIAL TRAINING,
 3 ATTENTION TO, AND STUDY OF THE APPLICATION AND ENFORCEMENT OF THE
 4 CRIMINAL LAWS CONCERNING RAPE AND SEXUAL OFFENSES, INCLUDING:

5 (I) THE SEXUAL ABUSE OF CHILDREN;

6 (II) RELATED EVIDENTIARY PROCEDURES; AND

7 (III) THE CONTACT WITH AND TREATMENT OF VICTIMS OF THESE
 8 CRIMES;

9 (7) TO CERTIFY AND ISSUE APPROPRIATE CERTIFICATES TO QUALIFIED
 10 INSTRUCTORS FOR POLICE TRAINING SCHOOLS AUTHORIZED BY THE COMMISSION
 11 TO OFFER POLICE TRAINING PROGRAMS;

12 (8) TO VERIFY THAT POLICE OFFICERS HAVE SATISFACTORILY
 13 COMPLETED TRAINING PROGRAMS AND ISSUE DIPLOMAS TO THOSE POLICE
 14 OFFICERS;

15 (9) TO CONDUCT AND OPERATE POLICE TRAINING SCHOOLS
 16 AUTHORIZED BY THE COMMISSION TO OFFER POLICE TRAINING PROGRAMS;

17 (10) TO MAKE A CONTINUOUS STUDY OF ENTRANCE-LEVEL AND
 18 IN-SERVICE TRAINING METHODS AND PROCEDURES;

19 (11) TO CONSULT WITH AND ACCEPT THE COOPERATION OF ANY
 20 RECOGNIZED FEDERAL, STATE, OR MUNICIPAL LAW ENFORCEMENT AGENCY OR
 21 EDUCATIONAL INSTITUTION;

22 (12) TO CONSULT AND COOPERATE WITH UNIVERSITIES, COLLEGES, AND
 23 INSTITUTIONS IN THE STATE TO DEVELOP SPECIALIZED COURSES OF STUDY FOR
 24 POLICE OFFICERS IN POLICE SCIENCE AND POLICE ADMINISTRATION;

25 (13) TO CONSULT AND COOPERATE WITH OTHER AGENCIES AND UNITS
 26 OF THE STATE CONCERNED WITH POLICE TRAINING; AND

27 (14) TO PERFORM ANY OTHER ACT THAT IS NECESSARY OR APPROPRIATE
 28 TO CARRY OUT THE POWERS AND DUTIES OF THE COMMISSION UNDER THIS
 29 SUBTITLE.

30 REVISOR'S NOTE: This section is new language derived without substantive
 31 change from former Art. 41, § 4-201(a)(1) and (d)(1) through (5), (8), (12),
 32 (13), (14), and (16).

33 In the introductory language of this section, the former references to the
 34 Commission's "authority" and "responsibility" are deleted as surplusage in
 35 light of the synonymous reference to the "powers" and "duties" of the
 36 Commission.

1 %In item (1) of this section, the former reference to "present existing"
2 training schools is deleted as implicit in the reference to "training schools".

3 In item (3) of this section, the former phrase "from time to time" is deleted
4 as surplusage.

5 In item (5)(iv) of this section, the phrase "eligibility requirements" is
6 substituted for the former reference to "eligibility to attend" for
7 grammatical consistency within this item.

8 In items (7) and (9) of this section, the former reference to a school that is
9 "approved" by the Commission is deleted as implicit in the reference to a
10 school that is "authorized" by the Commission.

11 Defined terms: "Commission" § 3-201

12 "County" § 1-101

13 "Law enforcement agency" § 3-201

14 "Police officer" § 3-201

15 "Secretary" § 3-201

16 3-208. REGULATIONS.

17 (A) IN GENERAL.

18 SUBJECT TO THE AUTHORITY OF THE SECRETARY, THE COMMISSION HAS THE
19 FOLLOWING POWERS AND DUTIES:

20 (1) TO ADOPT REGULATIONS NECESSARY OR APPROPRIATE TO CARRY
21 OUT THIS SUBTITLE; AND

22 (2) TO ADOPT REGULATIONS THAT ESTABLISH AND ENFORCE
23 STANDARDS FOR PRIOR SUBSTANCE ABUSE BY INDIVIDUALS APPLYING FOR
24 CERTIFICATION AS A POLICE OFFICER.

25 (B) CERTIFIED FIREARMS SAFETY TRAINING COURSE -- IN GENERAL.

26 SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, THE COMMISSION
27 SHALL ADOPT REGULATIONS ON OR BEFORE JANUARY 1, 2001, FOR A CERTIFIED
28 FIREARMS SAFETY TRAINING COURSE REQUIRED FOR AN APPLICANT FOR A
29 REGULATED FIREARMS PURCHASE, RENTAL, OR TRANSFER MADE ON OR AFTER
30 JANUARY 1, 2002.

31 (C) SAME -- ENTITIES OFFERING OR CONDUCTING COURSE.

32 THE CERTIFIED FIREARMS SAFETY TRAINING COURSE REQUIRED UNDER
33 SUBSECTION (B) OF THIS SECTION SHALL:

34 (1) BE OFFERED BY THE COMMISSION; OR

35 (2) CONTAIN A HANDGUN SAFETY COMPONENT AND BE CONDUCTED BY
36 AN INDIVIDUAL OR ORGANIZATION CERTIFIED BY:

- 1 (I) THE COMMISSION;
- 2 (II) THE DEPARTMENT OF NATURAL RESOURCES;
- 3 (III) THE DEPARTMENT OF STATE POLICE; OR
- 4 (IV) ANY REPUTABLE ORGANIZATION:

5 1. THAT HAS AS ONE OF ITS OBJECTIVES THE PROMOTION
6 OF COMPETENCY AND SAFETY IN HANDLING HANDGUNS; AND

7 2. WHOSE COURSE HAS BEEN DETERMINED BY THE
8 COMMISSION TO MEET THE REGULATIONS ADOPTED BY THE COMMISSION.

9 (D) SAME -- REQUIREMENTS FOR COURSE OFFERED BY COMMISSION.

10 ANY COURSE OFFERED BY THE COMMISSION UNDER SUBSECTION (C) OF THIS
11 SECTION:

12 (1) SHALL BE OFFERED FREE OF CHARGE OR FEE;

13 (2) MAY NOT BE MORE THAN 2 HOURS IN DURATION;

14 (3) SHALL BE CONDUCTED OR OFFERED AT LEAST ONCE EACH WEEK IN
15 ALL GEOGRAPHIC AREAS OF THE STATE;

16 (4) SHALL BE AVAILABLE AFTER REGULAR BUSINESS HOURS;

17 (5) SHALL BE OPEN TO EACH INDIVIDUAL REQUIRED BY LAW TO
18 COMPLETE THE FIREARMS SAFETY TRAINING COURSE, WITHIN 2 WEEKS AFTER
19 REQUEST OF THE INDIVIDUAL;

20 (6) SHALL ONLY REQUIRE ATTENDANCE THROUGHOUT THE DURATION
21 OF THE COURSE IN ORDER TO COMPLETE THE COURSE SUCCESSFULLY; AND

22 (7) MAY NOT REQUIRE ANY SKILLS OR KNOWLEDGE TESTING IN THE
23 USE OF A REGULATED FIREARM IN ORDER TO COMPLETE THE COURSE
24 SUCCESSFULLY.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 41, § 4-201(d)(11) and (15) and (d-1).

27 In the introductory language of subsection (a) of this section, the former
28 references to the Commission's "authority" and "responsibility" are deleted
29 as surplusage in light of the synonymous references to the "powers" and
30 "duties" of the Commission.

31 In subsection (a)(1) of this section, the requirement that the Commission
32 "adopt" regulations "to carry out this subtitle" is substituted for the former
33 requirement that the Commission "make" regulations "to accomplish the
34 purposes and objectives of this section" for consistency with similar

1 provisions in this and other revised articles of the Code. *See* General
2 Revisor's Note to article.

3 Also in subsection (a)(1) of this section, the former reference to "rules" is
4 deleted in light of the reference to "regulations". *See* General Revisor's
5 Note to article.

6 Also in subsection (a)(1) of this section, the former requirement that
7 regulations be "reasonably" necessary or appropriate is deleted in light of
8 Title 10, Subtitle 1 of the State Government Article, which requires that
9 regulations be adopted according to a procedure designed to ensure
10 reasonableness. *See, e.g.*, SG § 10-111.1(b).

11 In subsection (a)(2) of this section and throughout this subtitle, the
12 reference to an "individual[s]" is substituted for the former reference to a
13 "person[s]" because only an individual, and not the other entities included
14 in the defined term "person", may be certified as a police officer. *See* §
15 1-101 of this article for the definition of "person".

16 In subsection (d)(2) of this section, the reference to 2 hours in "duration" is
17 substituted for the former reference to 2 hours in "length" to use the proper
18 term.

19 Defined terms: "Commission" § 3-201

20 "Police officer" § 3-201

21 "Secretary" § 3-201

22 3-209. CERTIFICATION OF POLICE OFFICERS.

23 (A) IN GENERAL.

24 THE COMMISSION SHALL CERTIFY AS A POLICE OFFICER EACH INDIVIDUAL
25 WHO:

26 (1) SATISFACTORILY MEETS THE STANDARDS OF THE COMMISSION; OR

27 (2) PROVIDES THE COMMISSION WITH SUFFICIENT EVIDENCE THAT
28 THE INDIVIDUAL HAS SATISFACTORILY COMPLETED A TRAINING PROGRAM IN
29 ANOTHER STATE OF EQUAL QUALITY AND CONTENT AS REQUIRED BY THE
30 COMMISSION.

31 (B) CERTIFICATION OF OTHER INDIVIDUALS AUTHORIZED.

32 THE COMMISSION MAY CERTIFY AS A POLICE OFFICER AN INDIVIDUAL WHO IS
33 NOT CONSIDERED A POLICE OFFICER UNDER § 3-201(E)(3) OF THIS SUBTITLE IF THE
34 INDIVIDUAL MEETS THE SELECTION AND TRAINING STANDARDS OF THE
35 COMMISSION.

36 (C) CERTIFICATE REMAINS PROPERTY OF COMMISSION.

1 EACH CERTIFICATE ISSUED TO A POLICE OFFICER UNDER THIS SUBTITLE
2 REMAINS THE PROPERTY OF THE COMMISSION.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 41, § 4-201(d)(6), (k), and the third sentence of
5 (a)(8)(ii).

6 In the introductory language of subsection (a) of this section, the
7 mandatory language which provides that the Commission "shall" certify as
8 police officers individuals who have satisfactorily met the Commission's
9 standards or who have provided the Commission with sufficient evidence
10 that the individual has satisfactorily completed an equivalent training
11 course in another state, is substituted for the former references to the
12 "responsibility" and "duty" of the Commission for consistency with similar
13 provisions in other revised articles of the Code. The word "shall" is used in
14 revised articles to indicate a duty or responsibility.

15 The Public Safety Article Review Committee notes, for consideration by the
16 General Assembly, that the introductory language in former Art. 41, §
17 4-201(d) refers to the "authority", "responsibility", and "duty" of the
18 Commission. This language gives rise to the issue of whether former Art.
19 41, § 4-201(d)(6) establishes a power (*i.e.*, authority) or a duty (*i.e.*,
20 responsibility). Subsection (a) of this section has been drafted to create a
21 mandatory duty because the word "shall" (which indicates a duty) was
22 used several times in former Art. 41, § 4-201 with regard to certification of
23 police officers. For example, under former Art. 41, § 4-201(j)(1), a person
24 may not be employed as a police officer unless certified by the Commission.
25 If certification were not a duty of the Commission, then there would be no
26 individuals legally acting as police officers in the State if the Commission
27 chose not to certify police officers. If the General Assembly wishes to make
28 this power discretionary, the word "may" should be substituted for the
29 word "shall".

30 In subsection (c) of this section, the reference to a certificate "issued ...
31 under this subtitle" is substituted for the former reference to a certificate
32 "provided for in subsection (d)(6) of this section" for clarity. Former Art. 41,
33 § 4-201(d)(6) referred to the certification of police officers by the
34 Commission.

35 Defined terms: "Commission" § 3-201

36 "Police officer" § 3-201

37 "State" § 1-101

38 3-210. LAPSE OF CERTIFICATION -- IN GENERAL.

39 (A) AUTOMATIC LAPSE OF CERTIFICATION.

40 THE CERTIFICATION OF A POLICE OFFICER AUTOMATICALLY LAPSES 3 YEARS
41 AFTER THE DATE OF THE PREVIOUS CERTIFICATION.

1 (B) APPLICATION FOR RECERTIFICATION.

2 IF THE CERTIFICATION OF A POLICE OFFICER LAPSES, THE POLICE OFFICER
3 MAY APPLY FOR RECERTIFICATION IMMEDIATELY.

4 (C) AUTHORITY OF COMMISSION TO RECERTIFY.

5 THE COMMISSION MAY RECERTIFY A POLICE OFFICER AFTER THE
6 CERTIFICATION OF THE POLICE OFFICER LAPSES.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 41, § 4-201(h)(1), (2)(i), and (3).

9 In this section and throughout this subtitle, the terms "certify",
10 "certification", "recertify", and "recertification" are used for grammatical
11 consistency and are substituted for former references to a "certificate" as
12 necessary.

13 Defined terms: "Commission" § 3-201

14 "Police officer" § 3-201

15 3-211. SAME -- FAILURE TO MEET STANDARDS.

16 (A) IN GENERAL.

17 IF THE CERTIFICATION OF A POLICE OFFICER IS IN DANGER OF LAPSING OR
18 HAS LAPSED BECAUSE OF THE FAILURE OF THE POLICE OFFICER TO MEET THE
19 STANDARDS OF THE COMMISSION, THE POLICE OFFICER MAY REQUEST A HEARING
20 BEFORE THE COMMISSION TO PRESENT EVIDENCE THAT:

21 (1) THE POLICE OFFICER'S LAW ENFORCEMENT AGENCY
22 UNREASONABLY FAILED TO PROVIDE THE POLICE OFFICER WITH THE REQUIRED
23 TRAINING OR ASSIGNED THE POLICE OFFICER TO SPECIAL DUTY THAT PREVENTED
24 THE POLICE OFFICER FROM COMPLETING THE REQUIRED TRAINING TO ACHIEVE
25 THIS CERTIFICATION; AND

26 (2) THIS FAILURE IS THROUGH NO FAULT OF THE POLICE OFFICER.

27 (B) HEARING REQUIRED.

28 (1) ON REQUEST OF THE POLICE OFFICER FOR A HEARING UNDER THIS
29 SECTION, THE COMMISSION SHALL HOLD A HEARING.

30 (2) FOR PURPOSES OF THIS SUBSECTION, THE COMMISSION SHALL
31 FOLLOW THE PROCEDURES REQUIRED FOR A HEARING BOARD UNDER THE LAW
32 ENFORCEMENT OFFICERS' BILL OF RIGHTS AND THE POLICE OFFICER IS ENTITLED
33 TO ALL OF THE RIGHTS PROVIDED UNDER THE LAW ENFORCEMENT OFFICERS' BILL
34 OF RIGHTS.

35 (C) STAY OF LAPSE OF CERTIFICATION.

1 IF THE COMMISSION CONCLUDES THAT THE POLICE OFFICER'S LAW
2 ENFORCEMENT AGENCY UNREASONABLY FAILED TO PROVIDE THE POLICE OFFICER
3 WITH THE REQUIRED TRAINING OR ASSIGNED THE POLICE OFFICER TO SPECIAL
4 DUTY THAT PREVENTED THE POLICE OFFICER FROM COMPLETING THE REQUIRED
5 TRAINING TO ACHIEVE CERTIFICATION:

6 (1) THE COMMISSION SHALL STAY THE LAPSE OF THE CERTIFICATION
7 UNTIL THE POLICE OFFICER AND THE POLICE OFFICER'S LAW ENFORCEMENT
8 AGENCY MEET THE TRAINING REQUIREMENTS OF THE COMMISSION;

9 (2) THE POLICE OFFICER SHALL BE RETAINED IN THE POLICE
10 OFFICER'S LAW ENFORCEMENT AGENCY AT FULL PAY PENDING THE COMPLETION
11 OF THE TRAINING; AND

12 (3) THE COMMISSION SHALL ORDER THE POLICE OFFICER'S LAW
13 ENFORCEMENT AGENCY TO PAY ALL REASONABLE HEARING COSTS AND
14 ATTORNEY'S FEES INCURRED AS A RESULT OF THE ACTION.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 41, § 4-201(i).

17 Throughout this section, the reference to the police officer's "law
18 enforcement agency" is substituted for the former reference to the officer's
19 "department" for consistency with terminology used throughout this
20 subtitle.

21 In subsection (b)(1) of this section, the phrase "[o]n request of the police
22 officer for a hearing under this section" is added for clarity.

23 In subsection (c) of this section, the references to "required" training are
24 substituted for the former references to "necessary" training for
25 consistency with subsection (a)(1) of this section.

26 Defined terms: "Commission" § 3-201

27 "Law enforcement agency" § 3-201

28 "Police officer" § 3-201

29 3-212. SUSPENSIONS AND REVOCATIONS OF CERTIFICATION; HEARINGS; JUDICIAL
30 REVIEW.

31 (A) GROUNDS FOR SUSPENSIONS AND REVOCATIONS.

32 SUBJECT TO THE HEARING PROVISIONS OF SUBSECTION (B) OF THIS SECTION,
33 THE COMMISSION MAY SUSPEND OR REVOKE THE CERTIFICATION OF A POLICE
34 OFFICER IF THE POLICE OFFICER:

35 (1) VIOLATES OR FAILS TO MEET THE COMMISSION'S STANDARDS; OR

36 (2) KNOWINGLY FAILS TO REPORT SUSPECTED CHILD ABUSE IN
37 VIOLATION OF § 5-704 OF THE FAMILY LAW ARTICLE.

1 (B) HEARINGS.

2 (1) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 2 OF THE
3 STATE GOVERNMENT ARTICLE, BEFORE THE COMMISSION TAKES ANY FINAL ACTION
4 UNDER SUBSECTION (A) OF THIS SECTION, THE COMMISSION SHALL GIVE THE
5 INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR
6 A HEARING BEFORE THE COMMISSION.

7 (2) THE COMMISSION SHALL GIVE NOTICE AND HOLD THE HEARING IN
8 ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

9 (C) JUDICIAL REVIEW.

10 A POLICE OFFICER AGGRIEVED BY THE FINDINGS AND ORDER OF THE
11 COMMISSION MAY TAKE AN APPEAL AS ALLOWED IN §§ 10-222 AND 10-223 OF THE
12 STATE GOVERNMENT ARTICLE.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 41, § 4-201(d)(7) and (g).

15 In subsection (a) of this section, the language which provides that the
16 Commission "may" suspend or revoke the certification of a police officer
17 under certain circumstances, is substituted for the former reference to the
18 "authority" of the Commission for consistency with similar provisions in
19 other revised articles of the Code. The word "may" is used in revised
20 articles to indicate the authority of an entity to exercise a power. In
21 addition, the ability of a licensing body to suspend or revoke a license is
22 generally expressed as a power, rather than a duty, under licensing
23 schemes in other revised articles of the Code. Consequently, the former
24 reference to the power of the Commission to "initiate an action against the
25 officer" is deleted as included in the power of the Commission to suspend or
26 revoke the certificate.

27 The Public Safety Article Review Committee notes, for consideration by the
28 General Assembly, that the introductory language in former Art. 41, §
29 4-201(d) refers to the "authority", "responsibility", and "duty" of the
30 Commission. This language gives rise to the issue of whether former Art.
31 41, § 4-201(d)(7) establishes a power (*i.e.*, authority) or a duty (*i.e.*,
32 responsibility). Subsection (a) of this section has been drafted to establish
33 a power because "may" (which indicates a power) was used in former Art.
34 41, § 4-201(g)(1) with regard to the Commission initiating an action
35 against a police officer if the Commission believed that grounds for
36 suspension or revocation of certification existed. If the General Assembly
37 wishes to make this power mandatory, the word "shall" should be
38 substituted for the word "may".

39 The introductory language of subsection (b)(1) of this section, "[e]xcept as
40 otherwise provided in Title 10, Subtitle 2 of the State Government Article,"
41 is added to clarify that the Commissioner may act summarily under
42 certain circumstances. *See* SG § 10-226(c).

1 %In subsection (b)(2) of this section, the specific reference to "Title 10,
2 Subtitle 2 of the State Government Article" is substituted for the former
3 general reference to "the Administrative Procedure Act". Consequently, the
4 former references to the "time and place of the hearing" and the "grounds
5 for revocation and suspension of the certificate" are deleted as
6 unnecessary. Similarly, in subsection (c) of this section, the specific
7 references to "§§ 10-222 and 10-223 of the State Government Article" are
8 substituted for the former general reference to the "Administrative
9 Procedure Act".

10 Defined terms: "Commission" § 3-201

11 "Police officer" § 3-201

12 3-213. RECALL OF CERTIFICATE.

13 THE COMMISSION MAY RECALL THE CERTIFICATE OF A POLICE OFFICER IF THE
14 CERTIFICATION OF THE POLICE OFFICER IS SUSPENDED OR REVOKED FOR ANY OF
15 THE FOLLOWING REASONS:

16 (1) THE CERTIFICATE WAS ISSUED BY ADMINISTRATIVE ERROR;

17 (2) THE CERTIFICATE WAS OBTAINED THROUGH MISREPRESENTATION
18 OR FRAUD;

19 (3) THE POLICE OFFICER HAS BEEN CONVICTED OF A FELONY; OR

20 (4) THE POLICE OFFICER HAS BEEN CONVICTED OF A MISDEMEANOR
21 FOR WHICH A SENTENCE OF IMPRISONMENT EXCEEDING 1 YEAR MAY BE IMPOSED.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 41, § 4-201(l).

24 In items (3) and (4) of this section, references to the "police officer" are
25 substituted for former references to the "holder" for consistency with the
26 introductory language of this section.

27 Defined terms: "Commission" § 3-201

28 "Police officer" § 3-201

29 3-214. RECERTIFICATION AFTER REVOKED CERTIFICATION.

30 (A) IN GENERAL.

31 IF THE CERTIFICATION OF A POLICE OFFICER IS REVOKED, THE POLICE
32 OFFICER MAY NOT APPLY FOR RECERTIFICATION UNTIL 2 YEARS AFTER THE
33 EFFECTIVE DATE OF THE REVOCATION ORDER.

34 (B) AUTHORITY OF COMMISSION TO RECERTIFY.

35 THE COMMISSION MAY RECERTIFY AN INDIVIDUAL AS A POLICE OFFICER
36 AFTER THE CERTIFICATION OF THE POLICE OFFICER IS REVOKED.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 41, § 4-201(h)(2)(ii) and (4).

3 Defined terms: "Commission" § 3-201

4 "Police officer" § 3-201

5 3-215. APPOINTMENT OF POLICE OFFICERS, POLICE SUPERVISORS, AND POLICE
6 ADMINISTRATORS.

7 (A) DEFINITIONS.

8 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
9 INDICATED.

10 (2) "PERMANENT APPOINTMENT" MEANS THE APPOINTMENT OF AN
11 INDIVIDUAL WHO HAS SATISFACTORILY MET THE MINIMUM STANDARDS OF THE
12 COMMISSION AND IS CERTIFIED AS A POLICE OFFICER.

13 (3) "POLICE ADMINISTRATOR" MEANS A POLICE OFFICER WHO HAS
14 BEEN PROMOTED TO FIRST-LINE ADMINISTRATIVE DUTIES UP TO BUT NOT
15 EXCEEDING THE RANK OF CAPTAIN.

16 (4) "POLICE SUPERVISOR" MEANS A POLICE OFFICER WHO HAS BEEN
17 PROMOTED TO FIRST-LINE SUPERVISORY DUTIES.

18 (B) QUALIFICATIONS.

19 AN INDIVIDUAL MAY NOT BE GIVEN OR ACCEPT A PROBATIONARY
20 APPOINTMENT OR PERMANENT APPOINTMENT AS A POLICE OFFICER, POLICE
21 SUPERVISOR, OR POLICE ADMINISTRATOR UNLESS THE INDIVIDUAL
22 SATISFACTORILY MEETS THE QUALIFICATIONS ESTABLISHED BY THE COMMISSION.

23 (C) PROBATIONARY APPOINTMENT FOR TRAINING.

24 A PROBATIONARY APPOINTMENT AS A POLICE OFFICER, POLICE SUPERVISOR,
25 OR POLICE ADMINISTRATOR MAY BE MADE FOR A PERIOD NOT EXCEEDING 1 YEAR TO
26 ENABLE THE INDIVIDUAL SEEKING PERMANENT APPOINTMENT TO TAKE A
27 TRAINING COURSE REQUIRED BY THIS SUBTITLE.

28 (D) LEAVE OF ABSENCE.

29 A PROBATIONARY APPOINTEE IS ENTITLED TO A LEAVE OF ABSENCE WITH PAY
30 DURING THE PERIOD OF THE TRAINING PROGRAM.

31 REVISOR'S NOTE: Subsection (a)(1) of this section is standard language added
32 as the introductory language to a definition subsection.

33 Subsections (a)(2), (3), and (4), (b), (c), and (d) of this section are new
34 language derived without substantive change from former Art. 41, §
35 4-201(a)(6), (9), and (10), (e), and (f).

1 %In subsection (a)(3) and (4) of this section, the former reference to a "law
2 enforcement" officer is deleted as unnecessary in light of the defined term
3 "police officer".

4 In subsection (a)(3) of this section, the former phrase "from the
5 noncommissioned rank" is deleted as surplusage. Similarly, in subsection
6 (a)(4) of this section, the former phrase "from the patrolman rank" is
7 deleted.

8 The Public Safety Article Review Committee notes, for consideration by the
9 General Assembly, that the references in subsections (b), (c), and (d) of this
10 section to a "probationary" appointment may be more properly
11 characterized as a "provisional" appointment.

12 Defined terms: "Commission" § 3-201

13 "Police officer" § 3-201

14 3-216. EMPLOYMENT OF INDIVIDUAL WITHOUT CERTIFICATION PROHIBITED.

15 (A) IN GENERAL.

16 A LAW ENFORCEMENT AGENCY MAY NOT EMPLOY AN INDIVIDUAL AS A POLICE
17 OFFICER FOR A PERIOD NOT EXCEEDING 1 YEAR UNLESS THE INDIVIDUAL IS
18 CERTIFIED BY THE COMMISSION.

19 (B) EXCEPTION.

20 (1) IN THIS SUBSECTION, "NONFULL-TIME POLICE OFFICER" MEANS AN
21 INDIVIDUAL WHO DOES NOT WORK IN THE LAW ENFORCEMENT FIELD AT LEAST 7
22 MONTHS DURING THE CALENDAR YEAR.

23 (2) THE CERTIFICATION REQUIREMENTS OF SUBSECTION (A) OF THIS
24 SECTION DO NOT APPLY TO THE NONFULL-TIME POLICE OFFICERS OF A LAW
25 ENFORCEMENT AGENCY THAT:

26 (I) EMPLOYS, DURING A CALENDAR YEAR, AT LEAST 70 FULL-TIME
27 SWORN POLICE OFFICERS; AND

28 (II) EMPLOYS AT LEAST 100 NONFULL-TIME POLICE OFFICERS.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 41, § 4-201(j)(1) and (2).

31 In subsection (a) of this section, the reference to a "period not exceeding 1
32 year" is substituted for the former reference to a "period [not] to exceed 12
33 months" for consistency with § 3-215(c) of this subtitle.

34 Defined terms: "Commission" § 3-201

35 "Law enforcement agency" § 3-201

36 "Police officer" § 3-201

1 3-217. ACTING AS POLICE OFFICER WITH LAPSED, SUSPENDED, OR REVOKED
2 CERTIFICATE PROHIBITED.

3 AN INDIVIDUAL MAY NOT SERVE AS A POLICE OFFICER WHEN THE
4 CERTIFICATION OF THE POLICE OFFICER HAS LAPSED OR HAS BEEN SUSPENDED OR
5 REVOKED BY THE COMMISSION.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 41, § 4-201(j)(3).

8 Defined terms: "Commission" § 3-201

9 "Police officer" § 3-201

10 3-218. EFFECT OF SUBTITLE.

11 (A) ON LOCAL GOVERNMENT.

12 EXCEPT AS EXPRESSLY PROVIDED IN THIS SUBTITLE, THIS SUBTITLE DOES NOT
13 LIMIT THE POWERS, RIGHTS, DUTIES, OR RESPONSIBILITIES OF THE GOVERNMENT
14 OF A COUNTY OR MUNICIPAL CORPORATION.

15 (B) CONFLICTING LAW SUPERSEDED.

16 THIS SUBTITLE SUPERSEDES ANY LAW, ORDINANCE, OR REGULATION OF THE
17 STATE, A COUNTY, OR A MUNICIPAL CORPORATION THAT CONFLICTS WITH THIS
18 SUBTITLE.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 41, § 4-201(m) and (n).

21 Defined term: "County" § 1-101

22 SUBTITLE 3. SPECIAL POLICE OFFICERS.

23 3-301. DEFINITIONS.

24 (A) IN GENERAL.

25 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

26 REVISOR'S NOTE: This subsection is new language used as the standard
27 introductory language to a definition section.

28 (B) COMMISSION.

29 "COMMISSION" MEANS A SPECIAL POLICE COMMISSION ISSUED UNDER THIS
30 SUBTITLE.

31 REVISOR'S NOTE: This subsection is new language added to standardize the
32 reference to commissions issued to special police officers under this
33 subtitle. The definition is based on the first and second sentences of former

1 Art. 41, § 4-901.

2 (C) SECRETARY.

3 "SECRETARY" MEANS THE SECRETARY OF STATE POLICE.

4 REVISOR'S NOTE: This subsection is new language added to avoid repetition
5 of the full title "Secretary of State Police".

6 (D) SPECIAL POLICE OFFICER.

7 "SPECIAL POLICE OFFICER" MEANS AN INDIVIDUAL WHO HOLDS A COMMISSION
8 ISSUED UNDER THIS SUBTITLE.

9 REVISOR'S NOTE: This subsection is new language added to avoid repetition
10 of phrases such as "individual appointed as a special police officer",
11 "individual appointed under this subtitle", and "special police officer who
12 receives a commission under this subtitle".

13 Defined term: "Commission" § 3-301

14 3-302. GOVERNOR TO APPOINT SPECIAL POLICE OFFICERS.

15 THE GOVERNOR MAY APPOINT AND DEPUTIZE AS A SPECIAL POLICE OFFICER
16 EACH INDIVIDUAL THAT THE GOVERNOR CONSIDERS QUALIFIED FOR A
17 COMMISSION.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from the first sentence of former Art. 41, § 4-901.

20 In this section and throughout this subtitle, the reference to an
21 "individual" is substituted for the former reference to a "person[s]" because
22 only an individual, and not the other entities included in the defined term
23 "person", may be commissioned as a special police officer. *See* § 1-101 of
24 this article for the definition of "person".

25 Defined terms: "Commission" § 3-301

26 "Special police officer" § 3-301

27 3-303. ENTITIES AUTHORIZED TO APPLY FOR APPOINTMENT OF SPECIAL POLICE
28 OFFICERS; QUALIFICATIONS OF APPLICANTS.

29 (A) ENTITIES AUTHORIZED TO APPLY FOR APPOINTMENT OF SPECIAL POLICE
30 OFFICERS.

31 THE FOLLOWING ENTITIES MAY APPLY FOR THE APPOINTMENT OF SPECIAL
32 POLICE OFFICERS FOR THE FOLLOWING PURPOSES:

33 (1) A MUNICIPAL CORPORATION, COUNTY, OR OTHER GOVERNMENTAL
34 BODY OF THE STATE, IN ORDER TO PROTECT PROPERTY OWNED, LEASED, OR
35 REGULARLY USED BY THE GOVERNMENTAL BODY OR ANY OF ITS UNITS;

1 (2) ANOTHER STATE, OR SUBDIVISION OR UNIT OF ANOTHER STATE,
2 THAT HAS AN INTEREST IN PROPERTY LOCATED WHOLLY OR PARTLY IN THIS STATE,
3 IN ORDER TO PROTECT THE PROPERTY;

4 (3) A COLLEGE, UNIVERSITY, OR PUBLIC SCHOOL SYSTEM IN THE STATE,
5 IN ORDER TO PROTECT ITS PROPERTY OR STUDENTS; OR

6 (4) A PERSON THAT EXISTS AND FUNCTIONS FOR A LEGAL BUSINESS
7 PURPOSE, IN ORDER TO PROTECT ITS BUSINESS PROPERTY.

8 (B) AGE.

9 THE APPLICANT FOR A COMMISSION SHALL BE AT LEAST 18 YEARS OLD.

10 (C) TRAINING AND EDUCATION.

11 THE SECRETARY MAY REQUIRE TRAINING AND EDUCATION FOR SPECIAL
12 POLICE OFFICERS AS THE SECRETARY CONSIDERS NECESSARY.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 41, § 4-904, § 4-902(a)(3), and the second clause
15 of § 4-903(b).

16 In the introductory language of subsection (a) of this section, the reference
17 to the authority of specified entities to "apply for the appointment of
18 special police officers for the following purposes" is substituted for the
19 former reference to "[a]pplication for special police commission may be
20 made by any of the following" for clarity.

21 In subsection (a)(2) of this section, the phrase "in order to protect the
22 property" is added to state what only was implied in the former law and for
23 consistency with subsection (a)(1), (3), and (4) of this section.

24 In subsection (a)(3) of this section, the former word "located" is deleted as
25 surplusage.

26 In subsection (a)(4) of this section, the former reference to a "legitimate"
27 business purpose is deleted as included in the reference to a "legal"
28 business purpose.

29 Defined terms: "Commission" § 3-301

30 "County" § 1-101

31 "Person" § 1-101

32 "Secretary" § 3-301

33 "Special police officer" § 3-301

34 "State" § 1-101

35 3-304. APPLICATIONS FOR COMMISSIONS.

36 (A) EMPLOYER TO SUBMIT.

1 (1) THE EMPLOYER OF AN APPLICANT FOR A COMMISSION SHALL
2 SUBMIT THE APPLICATION UNDER THIS SECTION.

3 (2) A SEPARATE APPLICATION IS REQUIRED FOR EACH INDIVIDUAL
4 APPLICANT FOR A COMMISSION.

5 (B) CONTENTS; FEES.

6 (1) THE EMPLOYER OF AN APPLICANT FOR A COMMISSION SHALL:

7 (I) SUBMIT TO THE SECRETARY AN APPLICATION ON THE FORM
8 THAT THE SECRETARY REQUIRES;

9 (II) SUBMIT TO THE SECRETARY A COMPLETE SET OF THE
10 APPLICANT'S LEGIBLE FINGERPRINTS ON STANDARD FINGERPRINT CARDS;

11 (III) PAY TO THE SECRETARY A FEE TO COVER THE COST OF THE
12 FINGERPRINT RECORD CHECKS; AND

13 (IV) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, PAY TO THE
14 SECRETARY AN APPLICATION FEE OF \$100, TO COVER THE COST OF AN
15 INVESTIGATION OF THE APPLICANT.

16 (2) THE APPLICATION FEE IS NONREFUNDABLE IF THE APPLICATION IS
17 DENIED.

18 (3) AN APPLICATION FEE MAY NOT BE CHARGED TO A UNIT OF THE
19 STATE.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 41, § 4-902(b) and (a)(1), (2), and the first and
22 second sentences and, except as it related to the renewal fee, the third
23 sentence of (4).

24 In subsection (b)(1)(ii) and (iii) of this section, the reference to the
25 "Secretary" is substituted for the former reference to the "Department" for
26 consistency with subsection (b)(1)(i) and (iv) of this section.

27 In subsection (b)(1)(iii) of this section, the former reference to the
28 fingerprint "card" record checks is deleted as surplusage.

29 Defined terms: "Commission" § 3-301

30 "Secretary" § 3-301

31 3-305. INVESTIGATIONS OF APPLICANTS.

32 (A) IN GENERAL.

33 (1) THE SECRETARY SHALL INVESTIGATE THE CHARACTER,
34 REPUTATION, AND QUALIFICATIONS OF EACH APPLICANT FOR A COMMISSION.

1 (2) THE INVESTIGATION SHALL INCLUDE AN INVESTIGATION OF THE
2 APPLICANT'S CRIMINAL RECORD, INCLUDING CHECKING RECORDS OF LOCAL POLICE
3 DEPARTMENTS AND THE FEDERAL BUREAU OF INVESTIGATION.

4 (3) THE SECRETARY SHALL CONDUCT THE INVESTIGATION IN
5 ACCORDANCE WITH RULES AND REGULATIONS ADOPTED BY THE SECRETARY.

6 (B) RECOMMENDATION TO GOVERNOR.

7 (1) THE SECRETARY SHALL TRANSMIT TO THE GOVERNOR:

8 (I) THE RESULTS OF THE INVESTIGATION;

9 (II) A RECOMMENDATION ON DENYING OR GRANTING THE
10 APPLICATION; AND

11 (III) THE REASONS FOR THE RECOMMENDATION.

12 (2) THE GOVERNOR MAY ACCEPT THE RECOMMENDATION OF THE
13 SECRETARY BUT NEED NOT ISSUE A COMMISSION APPROVED BY THE SECRETARY IF
14 THE GOVERNOR BELIEVES IT NOT TO BE IN THE BEST INTEREST OF THE STATE TO
15 DO SO.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 41, § 4-903(a).

18 Subsection (b)(1) of this section is revised in the active voice to clarify that
19 the Secretary transmits the results of the investigation and the
20 recommendation to the Governor.

21 Defined terms: "Commission" § 3-301

22 "Secretary" § 3-301

23 3-306. ISSUANCE OF COMMISSION.

24 (A) ISSUANCE.

25 THE GOVERNOR SHALL ISSUE A COMMISSION TO EACH APPLICANT APPROVED
26 BY THE GOVERNOR.

27 (B) CONTENTS.

28 THE COMMISSION SHALL INDICATE:

29 (1) THE TERM OF THE COMMISSION; AND

30 (2) THE PROPERTY THAT THE COMMISSION IS INTENDED TO COVER OR
31 THE PURPOSE FOR WHICH THE COMMISSION IS ISSUED.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from the second and third sentences of former Art. 41, § 4-901.

1 %Subsection (a) of this section is revised in the active voice to clarify that the
2 Governor issues commissions.

3 Defined term: "Commission" § 3-301

4 3-307. SCOPE OF COMMISSION.

5 (A) IN GENERAL.

6 EACH SPECIAL POLICE OFFICER SHALL PROTECT AND PRESERVE PEACE AND
7 GOOD ORDER ON THE PROPERTY DESCRIBED IN THE APPLICATION FOR THE
8 COMMISSION.

9 (B) POWERS OF SPECIAL POLICE OFFICER.

10 A SPECIAL POLICE OFFICER MAY:

11 (1) ARREST INDIVIDUALS WHO TRESPASS OR COMMIT OFFENSES ON
12 THE PROPERTY DESCRIBED IN THE APPLICATION FOR THE COMMISSION;

13 (2) EXERCISE THE POWERS OF A POLICE OFFICER ON THE PROPERTY
14 DESCRIBED IN THE APPLICATION FOR THE COMMISSION;

15 (3) EXERCISE THE POWERS OF A POLICE OFFICER IN A COUNTY OR
16 MUNICIPAL CORPORATION OF THE STATE IN CONNECTION WITH THE CARE,
17 CUSTODY, AND PROTECTION OF OTHER PROPERTY OF THE ENTITY THAT REQUESTED
18 THE APPOINTMENT OF THE SPECIAL POLICE OFFICER OR OTHER PROPERTY, REAL OR
19 PERSONAL, FOR WHICH THE ENTITY HAS ASSUMED AN OBLIGATION TO MAINTAIN OR
20 PROTECT; AND

21 (4) DIRECT AND CONTROL TRAFFIC ON PUBLIC HIGHWAYS AND ROADS
22 IN THE IMMEDIATE VICINITY OF THE PROPERTY DESCRIBED IN THE APPLICATION
23 FOR THE COMMISSION IN ORDER TO FACILITATE THE ORDERLY MOVEMENT OF
24 TRAFFIC TO AND FROM THE PROPERTY, IF THE SECRETARY APPROVES OF THIS
25 ACTIVITY IN ADVANCE.

26 (C) LIMITATIONS AS TO VEHICLE LAWS.

27 (1) A SPECIAL POLICE OFFICER MAY MAKE AN ARREST OR ISSUE A
28 TRAFFIC CITATION FOR A VIOLATION OF THE MARYLAND VEHICLE LAW OR ANY
29 OTHER STATE OR LOCAL TRAFFIC LAW OR REGULATION ONLY IF THE SPECIAL
30 POLICE OFFICER:

31 (I) HAS A PROBATIONARY OR PERMANENT APPOINTMENT AS A
32 SECURITY OFFICER OR IS A MEMBER OF AN INDUSTRIAL POLICE FORCE; AND

33 (II) HAS COMPLETED THE BASIC TRAINING COURSE FOR POLICE
34 OFFICERS AS ESTABLISHED BY THE POLICE TRAINING COMMISSION IN ACCORDANCE
35 WITH SUBTITLE 2 OF THIS TITLE.

1 (2) A SPECIAL POLICE OFFICER MAY EXERCISE THE POWER DESCRIBED
2 IN PARAGRAPH (1) OF THIS SUBSECTION ONLY ON THE PROPERTY OF THE SPECIAL
3 POLICE OFFICER'S EMPLOYER AS DESCRIBED IN THE APPLICATION FOR THE
4 COMMISSION, UNLESS THE SPECIAL POLICE OFFICER IS IN ACTIVE PURSUIT FOR
5 THE PURPOSE OF IMMEDIATE APPREHENSION.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from the first through fifth sentences of former Art. 41, § 4-905.

8 In subsection (a)(1) of this section, the reference to the power to arrest
9 "individuals" is substituted for the former reference to the power to arrest
10 "persons" because only individuals, and not the other entities included in
11 the defined term "person", are subject to arrest. *See* § 1-101 of this article
12 for the definition of "person".

13 In subsection (b)(3) of this section, the reference to a "municipal
14 corporation" is substituted for the former reference to a "city" for
15 consistency with Md. Constitution, Art. XI-E.

16 In subsection (b)(4) of this section, the former phrase "adjacent to", which
17 modified "the property described in the application", is deleted as
18 surplusage in light of the phrase "in the immediate vicinity of".

19 Also in subsection (b)(4) of this section, the reference to the "movement" of
20 traffic is substituted for the former reference to "ingress and egress" for
21 clarity.

22 In subsection (c)(2) of this section, the former phrase "of an individual" is
23 deleted as implicit in the reference to "active pursuit" for the purpose of
24 immediate apprehension.

25 Defined terms: "Commission" § 3-301

26 "Secretary" § 3-301

27 "Special police officer" § 3-301

28 3-308. LIABILITY FOR WRONGFUL ACTIONS OR ABUSE OF POWERS.

29 (A) RESPONSIBILITY OF SPECIAL POLICE OFFICER.

30 THE SPECIAL POLICE OFFICER IS RESPONSIBLE FOR:

31 (1) ANY ABUSE OF THE SPECIAL POLICE OFFICER'S POWERS; AND

32 (2) THE EXERCISE OF THE SPECIAL POLICE OFFICER'S POWERS ON
33 PROPERTY NOT WITHIN THE SPECIAL POLICE OFFICER'S JURISDICTION.

34 (B) RESPONSIBILITY OF ENTITY.

35 THE ENTITY THAT REQUESTED THE APPOINTMENT OF THE SPECIAL POLICE
36 OFFICER IS ALSO RESPONSIBLE FOR:

1 (1) ANY WRONGFUL ACTION THAT THE SPECIAL POLICE OFFICER
2 COMMITS IN THE COURSE OF THE SPECIAL POLICE OFFICER'S DUTIES; AND

3 (2) ANY ABUSE OF THE POWERS GRANTED BY THE COMMISSION, EITHER
4 ON OR OFF THE PREMISES.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from the sixth and seventh sentences of former Art. 41, § 4-905.

7 Throughout this section, the defined term "special police officer" is
8 substituted for the former references to the "officer" for clarity and
9 consistency throughout this subtitle.

10 In the introductory language of subsection (b) of this section, the former
11 phrase "for whose convenience and protection the officer has been
12 appointed" is deleted as surplusage.

13 Defined terms: "Commission" § 3-301

14 "Special police officer" § 3-301

15 3-309. OATH.

16 (A) REQUIRED.

17 WITHIN 30 DAYS AFTER ISSUANCE OF A COMMISSION AND BEFORE
18 PERFORMING THE DUTIES OF A SPECIAL POLICE OFFICER, EACH SPECIAL POLICE
19 OFFICER SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND
20 CONSTITUTION BEFORE THE CLERK OF THE CIRCUIT COURT WHERE THE
21 COMMISSION IS RECEIVED.

22 (B) CERTIFICATE OF OATH.

23 THE CLERK OF THE COURT SHALL TRANSMIT TO THE SECRETARY OF STATE A
24 CERTIFICATE THAT INDICATES THAT THE SPECIAL POLICE OFFICER HAS TAKEN THE
25 OATH REQUIRED BY SUBSECTION (A) OF THIS SECTION.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 41, § 4-908.

28 In subsections (a) and (b) of this section, the defined term "special police
29 officer" is substituted for the former references to a "person appointed
30 under this subtitle" and a "person commissioned" for clarity and
31 consistency with terminology used throughout this subtitle.

32 In subsection (a) of this section, the reference to the "oath required by
33 Article I, § 9 of the Maryland Constitution" is substituted for the former
34 reference to the "constitutional oath of office" for specificity and to conform
35 to language used in similar provisions in other revised articles of the Code.

36 Also in subsection (a) of this section, the reference to the clerk of the

1 "circuit" court where the commission is received is substituted for the
2 former reference to the clerk of the court in the "county or Baltimore City"
3 for specificity.

4 Also in subsection (a) of this section, the former reference to "Baltimore
5 City" is deleted as included in the defined term "county". See § 1-101 of
6 this article.

7 Defined terms: "Commission" § 3-301

8 "County" § 1-101

9 "Special police officer" § 3-301

10 3-310. UNIFORM, BADGE, AND IDENTIFICATION.

11 (A) IN GENERAL.

12 (1) UNLESS A SPECIAL POLICE OFFICER IS ON DETECTIVE DUTY, THE
13 SPECIAL POLICE OFFICER SHALL WEAR:

14 (I) A UNIFORM THAT IS DISTINGUISHABLE FROM ORDINARY
15 CIVILIAN CLOTHING AND THAT GIVES NOTICE THAT THE SPECIAL POLICE OFFICER
16 IS A LAW ENFORCEMENT OFFICIAL; AND

17 (II) A DISTINCTIVE POLICE BADGE THAT PROPERLY IDENTIFIES
18 THE OFFICER AS A SPECIAL POLICE OFFICER.

19 (2) THE BADGE SHALL BE WORN IN PLAIN VIEW.

20 (3) THE UNIFORM, BADGE, AND IDENTIFICATION ARE SUBJECT TO
21 APPROVAL BY THE DEPARTMENT OF STATE POLICE.

22 (B) DETECTIVE DUTY.

23 EACH SPECIAL POLICE OFFICER ON DETECTIVE DUTY SHALL CARRY:

24 (1) IDENTIFICATION THAT PROPERLY IDENTIFIES THE SPECIAL POLICE
25 OFFICER AS A SPECIAL POLICE OFFICER; AND

26 (2) THE DISTINCTIVE POLICE BADGE DESCRIBED IN SUBSECTION (A) OF
27 THIS SECTION.

28 (C) SURRENDER OF IDENTIFICATION OR BADGE.

29 A SPECIAL POLICE OFFICER SHALL SURRENDER TO THE SPECIAL POLICE
30 OFFICER'S EMPLOYER ANY IDENTIFICATION OR BADGE THAT IDENTIFIES THE
31 INDIVIDUAL AS A SPECIAL POLICE OFFICER WITHIN 48 HOURS AFTER THE
32 SUSPENSION OR TERMINATION OF:

33 (1) THE EMPLOYMENT OF THE SPECIAL POLICE OFFICER; OR

1 (2) THE COMMISSION OF THE SPECIAL POLICE OFFICER IN
2 ACCORDANCE WITH § 3-313 OF THIS SUBTITLE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 41, § 4-907.

5 In subsection (a)(2) of this section, the former phrase "to all who come in
6 contact with the officer" is deleted as surplusage in light of the
7 requirement that the badge be worn "in plain view".

8 In subsection (a)(3) of this section, the former reference to "refusal" is
9 deleted as implicit in the requirement for "approval by the Department of
10 State Police".

11 Defined terms: "Commission" § 3-301

12 "Department" § 3-301

13 "Special police officer" § 3-301

14 3-311. EMPLOYEE STATUS; COMPENSATION.

15 (A) EMPLOYEE STATUS.

16 EACH SPECIAL POLICE OFFICER IS DEEMED TO BE AN EMPLOYEE OF THE
17 ENTITY THAT REQUESTED THE APPOINTMENT.

18 (B) COMPENSATION.

19 A SPECIAL POLICE OFFICER SHALL BE COMPENSATED BY THE ENTITY ON
20 WHATEVER TERMS CONTRACTED FOR.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 41, § 4-909.

23 In subsection (a) of this section, the general reference to the "entity" that
24 requested the appointment is substituted for the former reference to the
25 "State, agency, governing body, school system, or business concern" that
26 requested the appointment for brevity and consistency with language used
27 elsewhere in this subtitle.

28 3-312. TERM AND RENEWAL OF COMMISSION.

29 (A) TERM OF COMMISSION.

30 AN INITIAL COMMISSION EXPIRES 2 YEARS AFTER ITS DATE OF ISSUANCE.

31 (B) APPLICATION FOR RENEWAL.

32 (1) AT THE END OF THE TERM OF A COMMISSION, THE COMMISSION IS
33 RENEWABLE FOR A 3-YEAR TERM IF THE EMPLOYER OF THE SPECIAL POLICE
34 OFFICER:

1 (I) SUBMITS TO THE SECRETARY A RENEWAL APPLICATION ON
2 THE FORM THAT THE SECRETARY REQUIRES;

3 (II) SUBMITS TO THE SECRETARY A COMPLETE SET OF THE
4 SPECIAL POLICE OFFICER'S LEGIBLE FINGERPRINTS ON STANDARD FINGERPRINT
5 CARDS;

6 (III) PAYS TO THE SECRETARY A FEE TO COVER THE COST OF THE
7 FINGERPRINT RECORD CHECKS; AND

8 (IV) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, PAYS TO
9 THE SECRETARY A RENEWAL FEE OF \$60.

10 (2) A RENEWAL FEE MAY NOT BE CHARGED TO A UNIT OF THE STATE.

11 (C) DEADLINE FOR RENEWAL.

12 THE SECRETARY MAY SET THE DEADLINE FOR SUBMITTING A RENEWAL
13 APPLICATION TO THE SECRETARY.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 41, § 4-910 and, as it related to the renewal fee,
16 the third sentence of § 4-902(a)(4).

17 In the introductory language of subsection (b)(1) of this section, the
18 reference to the "employer" is substituted for the former references to the
19 "requesting agency" and the "applicant" for clarity and consistency because
20 only the employer of a special police officer may submit a renewal
21 application and the fingerprint cards have always been turned in to the
22 Secretary by the employer.

23 In subsection (b)(1)(ii) of this section, the reference to the "special police
24 officer's" fingerprints is substituted for the former reference to the
25 "applicant's" fingerprints for clarity.

26 In subsection (b)(1)(iii) of this section, the former reference to the
27 fingerprint "card" record checks is deleted as surplusage.

28 In subsection (b)(1)(iv) of this section, the former reference to a fee "to
29 cover the costs of renewal" is deleted as implicit in the reference to a
30 "renewal" fee.

31 Defined terms: "Commission" § 3-301

32 "Secretary" § 3-301

33 "Special police officer" § 3-301

34 3-313. SUSPENSIONS AND TERMINATIONS.

35 (A) IN GENERAL.

1 (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A
2 COMMISSION IS SUSPENDED OR TERMINATES WHEN THE EMPLOYER OF THE
3 SPECIAL POLICE OFFICER FILES WRITTEN NOTICE THAT STATES THAT THE SPECIAL
4 POLICE OFFICER IS SUSPENDED FROM OR RELIEVED OF THE DUTIES OF A SPECIAL
5 POLICE OFFICER.

6 (2) THE GOVERNOR MAY SUSPEND OR TERMINATE A COMMISSION:

7 (I) ON RECOMMENDATION OF THE SECRETARY; OR

8 (II) ON THE GOVERNOR'S OWN MOTION IF THE GOVERNOR FINDS IT
9 IN THE BEST INTEREST OF THE STATE.

10 (3) THE SUSPENSION OR TERMINATION SHALL BE NOTED IN THE
11 OFFICIAL RECORDS OF THE GOVERNOR.

12 (4) THE SUSPENSION OR TERMINATION MAY NOT TAKE EFFECT UNTIL 5
13 DAYS AFTER NOTICE IS SENT TO BOTH THE SPECIAL POLICE OFFICER AND THE
14 SPECIAL POLICE OFFICER'S EMPLOYER.

15 (B) DELEGATION OF POWER BY GOVERNOR.

16 THE GOVERNOR MAY DELEGATE THE POWER TO SUSPEND OR TERMINATE A
17 COMMISSION TO THE SECRETARY OF STATE, THE ASSISTANT SECRETARY OF STATE,
18 OR BOTH.

19 (C) EXCEPTION.

20 A COMMISSION DOES NOT TERMINATE IF:

21 (1) AN EMPLOYER NO LONGER NEEDS THE SERVICES OF A SPECIAL
22 POLICE OFFICER BECAUSE THE EMPLOYER HAS TRANSFERRED THE BUSINESS
23 PROPERTY DESCRIBED IN THE COMMISSION TO ANOTHER PERSON FOR LEGAL
24 BUSINESS PURPOSES; AND

25 (2) THE OTHER PERSON EXECUTES A FORM PREPARED BY THE
26 SECRETARY OF STATE THAT AFFIRMS THAT THE OTHER PERSON WILL EMPLOY THE
27 SPECIAL POLICE OFFICER TO PROTECT THAT BUSINESS PROPERTY AND WILL
28 ASSUME THE RESPONSIBILITIES OF THE ORIGINAL EMPLOYER AS DESCRIBED IN
29 THIS SUBTITLE.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 41, § 4-913(b), (c), and the first, second, and third
32 sentences of (a).

33 In subsection (a)(1) of this section, the word "terminates" is substituted for
34 the former words "shall cease" for clarity and consistency throughout this
35 section.

36 Also in subsection (a)(1) of this section, the reference to the "employer" of

1 the special police officer is substituted for the former reference to the
2 "State, agency, college, school system, or business" that requested the
3 appointment for brevity and consistency with language used elsewhere in
4 this subtitle.

5 In subsection (c)(1) of this section, the former reference to "legitimate"
6 business purposes is deleted as included in the reference to "legal"
7 business purposes.

8 In subsection (c)(2) of this section, the reference to the "other person" is
9 substituted for the former reference to the "transferee" for clarity and
10 consistency with subsection (c)(1) of this section.

11 Defined terms: "Commission" § 3-301

12 "Secretary" § 3-301

13 "Special police officer" § 3-301

14 3-314. IMMUNITY OF STATE, SUBDIVISION, OR MUNICIPAL CORPORATION.

15 THE STATE AND ANY SUBDIVISION OR MUNICIPAL CORPORATION OF THE
16 STATE SHALL HAVE THE IMMUNITY FROM LIABILITY DESCRIBED UNDER § 5-613 OF
17 THE COURTS ARTICLE UNLESS THE SUBDIVISION OR MUNICIPAL CORPORATION
18 REQUESTS THE APPOINTMENT OF AN INDIVIDUAL AS A SPECIAL POLICE OFFICER
19 AND THE REQUEST IS GRANTED AS PROVIDED IN THIS SUBTITLE.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 41, § 4-912.

22 The references to a "municipal corporation" are substituted for the former
23 references to a "municipality" to conform to Md. Constitution, Art. XI-E.

24 Defined term: "Special police officer" § 3-301

25 3-315. PROHIBITED ACTS; PENALTY.

26 (A) ACTING AS SPECIAL POLICE OFFICER WITHOUT COMMISSION
27 PROHIBITED.

28 AN INDIVIDUAL MAY NOT EXERCISE OR ATTEMPT TO EXERCISE ANY OF THE
29 POWERS OF A SPECIAL POLICE OFFICER GRANTED UNDER THIS SUBTITLE WITHOUT
30 A COMMISSION.

31 (B) ACTING AS SPECIAL POLICE OFFICER WITH KNOWLEDGE OF SUSPENSION
32 OR TERMINATION PROHIBITED.

33 (1) AN INDIVIDUAL MAY NOT EXERCISE OR ATTEMPT TO EXERCISE ANY
34 OF THE POWERS OF A SPECIAL POLICE OFFICER GRANTED UNDER THIS SUBTITLE IF
35 THE INDIVIDUAL KNOWS OF THE SUSPENSION OR TERMINATION OF THE
36 INDIVIDUAL'S COMMISSION OR IF THE INDIVIDUAL HAS IN ANY MANNER RECEIVED
37 NOTICE OF THE SUSPENSION OR TERMINATION OF THE INDIVIDUAL'S COMMISSION.

1 (2) AN INDIVIDUAL IS PRESUMED TO KNOW OF A SUSPENSION OR
2 TERMINATION IF NOTICE OF THE SUSPENSION OR TERMINATION IS FILED AND
3 MAILED IN ACCORDANCE WITH § 3-313 OF THIS SUBTITLE.

4 (C) EMPLOYING INDIVIDUAL AS SPECIAL POLICE OFFICER WITHOUT
5 COMMISSION PROHIBITED.

6 AN EMPLOYER MAY NOT KNOWINGLY:

7 (1) HIRE AN INDIVIDUAL TO PERFORM THE DUTIES OF A SPECIAL
8 POLICE OFFICER UNLESS THE INDIVIDUAL HOLDS A COMMISSION; OR

9 (2) CONTINUE TO EMPLOY AN INDIVIDUAL TO PERFORM THE DUTIES OF
10 A SPECIAL POLICE OFFICER:

11 (I) UNLESS THE INDIVIDUAL HOLDS A COMMISSION; OR

12 (II) IF THE INDIVIDUAL'S COMMISSION IS SUSPENDED OR
13 TERMINATED.

14 (D) PENALTY.

15 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
16 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A
17 FINE NOT EXCEEDING \$1,000 OR BOTH.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 41, § 4-911 and the fourth and fifth sentences of
20 § 4-913(a).

21 In subsections (a) and (b)(1) of this section, the references to the powers "of
22 a special police officer" are added for clarity.

23 In subsection (a) of this section, the reference to this "subtitle" is
24 substituted for the former reference to this "subheading" for clarity and
25 accuracy.

26 In subsection (b)(1) and (2) of this section, the reference to "termination" of
27 a commission is substituted for the former reference to "revocation" for
28 clarity and consistency with § 3-313 of this subtitle. Similarly, in
29 subsection (c)(2)(ii) of this section, the word "terminated" is substituted for
30 the former word "revoked" for clarity and consistency.

31 In subsection (c)(2)(i) and (ii) of this section, the reference to an
32 "individual" is substituted for the former reference to an "employee" for
33 consistency throughout this section.

34 Defined terms: "Commission" § 3-301

35 "Special police officer" § 3-301

1 3-316. REGULATIONS.

2 THE SECRETARY MAY, AS THE SECRETARY CONSIDERS NECESSARY TO CARRY
3 OUT THE PURPOSE OF THIS SUBTITLE, ADOPT RULES AND REGULATIONS FOR THE
4 CONDUCT OF SPECIAL POLICE OFFICERS.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from the first clause of former Art. 41, § 4-903(b).

7 The former reference to regulations necessary to "fully" carry out this
8 subtitle is deleted as surplusage.

9 The former reference to the "provisions" of this subtitle is deleted as
10 included in the reference to the "purpose" of this subtitle.

11 Defined terms: "Secretary" § 3-301

12 "Special police officer" § 3-301

13 SUBTITLE 4. MARYLAND RAILROAD POLICE ACT.

14 3-401. DEFINITIONS.

15 (A) IN GENERAL.

16 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

17 REVISOR'S NOTE: This subsection formerly was Art. 23, § 256(a).

18 In this subsection and throughout this subtitle, the reference to this
19 "subtitle" is substituted for the former reference to this "subheading" to
20 reflect the revision of former Art. 23, §§ 256 through 266 as this subtitle.

21 No other changes are made.

22 (B) RAILROAD COMPANY.

23 (1) "RAILROAD COMPANY" MEANS A RAILWAY COMPANY OR
24 CORPORATION, TOGETHER WITH ITS SUBSIDIARIES, CORPORATE AFFILIATES, AND
25 PARENT COMPANIES, THAT IS ENGAGED AS A COMMON CARRIER IN THE FURNISHING
26 OR SALE OF TRANSPORTATION SUBJECT TO SUBTITLE IV OF TITLE 49 OF THE UNITED
27 STATES CODE.

28 (2) "RAILROAD COMPANY" INCLUDES A CORPORATION THE TITLE OF
29 WHICH CONTAINS A COMBINATION OF WORDS SIMILAR TO "RAILWAY COMPANY".

30 REVISOR'S NOTE: This subsection is new language derived without
31 substantive change from former Art. 23, § 256(d).

32 The term "railroad company" is substituted for the former term "railroad"
33 for clarity and consistency with other revised articles of the Code. The term
34 "railroad" usually connotes a common carrier by rail and the physical plant

1 and equipment of the common carrier. The term "railroad company"
2 connotes the corporation that operates the railroad. *See* LE § 5.5-101 and
3 PUC § 9-301.

4 (C) RAILROAD POLICE OFFICER.

5 "RAILROAD POLICE OFFICER" MEANS AN INDIVIDUAL APPOINTED BY THE
6 GOVERNOR TO ACT AS A POLICE OFFICER FOR A RAILROAD COMPANY UNDER THIS
7 SUBTITLE.

8 REVISOR'S NOTE: This subsection is new language derived without
9 substantive change from former Art. 23, § 256(b).

10 The references to a "[r]ailroad police" officer acting as a police officer "for a
11 railroad company" are added for clarity because this subtitle applies only
12 to railroad police officers, and not to other police officers.

13 The reference to an "individual" is substituted for the former reference to a
14 "person" because only an individual, and not the other entities included in
15 the defined term "person", may be appointed to act as a railroad police
16 officer. *See* § 1-101 of this article for the definition of "person".

17 The phrase "by the Governor" is substituted for the former phrase "by the
18 State" for clarity because the Governor issues appointments under this
19 subtitle. *See* § 3-405 of this subtitle.

20 The former phrase "selected by a railroad" is deleted as implicit because
21 the railroad police officer is acting as a police officer for a railroad
22 company.

23 Defined term: "Railroad company" § 3-401

24 (D) SECRETARY.

25 "SECRETARY" MEANS THE SECRETARY OF STATE POLICE.

26 REVISOR'S NOTE: This subsection formerly was Art. 23, § 256(e).

27 The only change is in style.

28 3-402. APPOINTMENT OF RAILROAD POLICE OFFICERS AUTHORIZED.

29 EACH RAILROAD COMPANY LOCATED WHOLLY OR PARTLY IN THE STATE MAY
30 APPLY FOR THE APPOINTMENT OF RAILROAD POLICE OFFICERS:

31 (1) TO PROTECT PROPERTY, PATRONS, PASSENGERS, TENANTS,
32 EMPLOYEES, EQUIPMENT, AND SERVICES; AND

33 (2) TO PRESERVE PEACE AND ORDER ON RAILROAD PREMISES,
34 EASEMENTS, APPURTENANT PROPERTY, TRAINS, CARS, AND OTHER VEHICLES.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 23, § 257(a).

3 The former reference to a railroad making application "for qualified
4 persons as they may require" is deleted as implicit.

5 Defined terms: "Railroad company" § 3-401

6 "Railroad police officer" § 3-401

7 3-403. QUALIFICATIONS OF APPLICANTS.

8 (A) IN GENERAL.

9 TO QUALIFY FOR APPOINTMENT TO ACT AS A RAILROAD POLICE OFFICER
10 UNDER THIS SUBTITLE, AN APPLICANT SHALL BE AN INDIVIDUAL WHO MEETS THE
11 REQUIREMENTS OF THIS SECTION.

12 (B) MORAL CHARACTER.

13 (1) THE APPLICANT SHALL BE OF GOOD MORAL CHARACTER.

14 (2) THE APPLICANT MAY NOT HAVE BEEN CONVICTED OF A FELONY OR
15 MISDEMEANOR INVOLVING MORAL TURPITUDE.

16 (C) AGE.

17 THE APPLICANT SHALL BE AT LEAST 21 YEARS OLD.

18 (D) EDUCATION AND EXPERIENCE.

19 THE APPLICANT SHALL:

20 (1) BE A FULL-TIME POLICE OFFICER EMPLOYED BY A RAILROAD
21 COMPANY ON JULY 1, 1979; OR

22 (2) MEET ALL THE EDUCATIONAL AND TRAINING REQUIREMENTS
23 REQUIRED BY THE POLICE TRAINING COMMISSION.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 23, § 256(c).

26 It is revised as substantive provisions rather than a definition of "qualified
27 person" because the former definition listed the qualifications necessary
28 for appointment to act as a railroad police officer.

29 In subsection (d)(1) of this section, the former reference to the "Maryland"
30 Police Training Commission is deleted to use the proper title of the
31 Commission.

32 As to the Police Training Commission, *see* Subtitle 2 of this title.

1 Defined terms: "Railroad company" § 3-401

2 "Railroad police officer" § 3-401

3 3-404. APPLICATIONS FOR APPOINTMENTS.

4 (A) IN GENERAL.

5 THE CHIEF RAILROAD POLICE OFFICER OF A RAILROAD COMPANY SHALL:

6 (1) SUBMIT TO THE SECRETARY UNDER OATH AN APPLICATION FOR
7 APPOINTMENT OF EACH RAILROAD POLICE OFFICER ON THE FORM THAT THE
8 SECRETARY REQUIRES; AND

9 (2) PAY TO THE SECRETARY THE APPLICATION FEE SET BY THE
10 SECRETARY.

11 (B) APPLICATION FEE NONREFUNDABLE.

12 THE APPLICATION FEE IS NONREFUNDABLE.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 23, § 257(b).

15 In the introductory language of subsection (a) of this section, the former
16 reference to the "requesting" railroad is deleted as implicit.

17 In subsection (a)(1) of this section, the former reference to making an
18 application "in writing" is deleted as unnecessary in light of the
19 requirement to submit the application on the form that the Secretary
20 requires.

21 Defined terms: "Railroad company" § 3-401

22 "Railroad police officer" § 3-401

23 "Secretary" § 3-401

24 3-405. ISSUANCE OF APPOINTMENT.

25 (A) RECOMMENDATION TO GOVERNOR.

26 (1) THE SECRETARY SHALL SUBMIT TO THE GOVERNOR:

27 (I) EACH APPLICATION FOR APPOINTMENT OF A RAILROAD POLICE
28 OFFICER RECEIVED UNDER THIS SUBTITLE;

29 (II) A RECOMMENDATION ON DENYING OR GRANTING THE
30 APPLICATION; AND

31 (III) THE REASONS FOR THE RECOMMENDATION.

32 (2) THE GOVERNOR MAY ACCEPT THE RECOMMENDATION OF THE
33 SECRETARY BUT NEED NOT ISSUE AN APPOINTMENT APPROVED BY THE SECRETARY

1 IF THE GOVERNOR BELIEVES IT IS NOT IN THE BEST INTEREST OF THE STATE TO DO
2 SO.

3 (B) ISSUANCE OF APPOINTMENT.

4 THE GOVERNOR SHALL ISSUE AN APPOINTMENT TO ACT AS A RAILROAD POLICE
5 OFFICER TO EACH APPLICANT APPROVED BY THE GOVERNOR.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 23, § 258(a) and (b).

8 In subsection (b) of this section, standard language is added to express the
9 formerly implied duty of the Governor to issue an appointment to an
10 applicant approved by the Governor.

11 Defined terms: "Railroad police officer" § 3-401

12 "Secretary" § 3-401

13 3-406. SCOPE OF APPOINTMENT.

14 (A) IN GENERAL.

15 EACH RAILROAD POLICE OFFICER HAS ALL THE POWERS GRANTED TO A PEACE
16 OR POLICE OFFICER.

17 (B) LIMITATION OF POWERS.

18 A RAILROAD POLICE OFFICER MAY EXERCISE THE POWERS GRANTED UNDER
19 THIS SUBTITLE ONLY IF THE RAILROAD POLICE OFFICER:

20 (1) IS ON REAL OR PERSONAL PROPERTY OWNED, LEASED, OPERATED,
21 OR CONTROLLED BY THE RAILROAD COMPANY THAT EMPLOYS THE RAILROAD
22 POLICE OFFICER;

23 (2) IS IN FRESH PURSUIT OF A SUSPECT;

24 (3) IS REQUESTED OR AUTHORIZED TO ACT BY THE EXECUTIVE OFFICER
25 OR CHIEF POLICE OFFICER OF A COUNTY; OR

26 (4) IS ORDERED TO ACT BY THE GOVERNOR.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 23, § 260(a) and (b).

29 In subsection (a) of this section, the defined term "railroad police officer" is
30 substituted for the former reference to "[m]embers of the Maryland
31 railroad police" for consistency with terminology used throughout this
32 subtitle. Similarly, in the introductory language of subsection (b) of this
33 section, the former reference to a "Maryland" railroad police officer is
34 deleted.

1 %In subsection (b)(1) of this section, the former phrase "hereinafter referred
2 to as railroad property" is deleted as surplusage because the term "railroad
3 property" does not appear anywhere else in this revised subtitle in this
4 context.

5 In subsection (b)(2) of this section, the reference to a "suspect" is
6 substituted for the former reference to a "suspected offender" for brevity.

7 In subsection (b)(3) of this section, the former reference to "Baltimore City"
8 is deleted as included in the defined term "county".

9 Defined terms: "County" § 1-101

10 "Railroad company" § 3-401

11 "Railroad police officer" § 3-401

12 3-407. LIABILITY FOR WRONGFUL ACTIONS OR ABUSE OF POWERS.

13 THE RAILROAD COMPANY THAT EMPLOYS A RAILROAD POLICE OFFICER IS
14 LIABLE FOR ANY WRONGFUL ACTION OR ABUSE OF POWER BY THE RAILROAD
15 POLICE OFFICER.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 23, § 260(c).

18 The former reference to a "Maryland" railroad police officer is deleted for
19 consistency with terminology used throughout this subtitle.

20 Defined terms: "Railroad company" § 3-401

21 "Railroad police officer" § 3-401

22 3-408. OATH.

23 BEFORE PERFORMING THE DUTIES OF A RAILROAD POLICE OFFICER, EACH
24 RAILROAD POLICE OFFICER SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF
25 THE MARYLAND CONSTITUTION BEFORE THE CLERK OF THE CIRCUIT COURT WHERE
26 THE APPOINTMENT IS RECEIVED.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 23, § 259.

29 The defined term "railroad police officer" is substituted for the former
30 reference to "each officer appointed under this subheading" for clarity and
31 consistency with terminology used throughout this subtitle.

32 The reference to the "oath required by Article I, § 9 of the Maryland
33 Constitution" is substituted for the former reference to an "oath of office"
34 for specificity and to conform to language used in similar provisions in
35 other revised articles of the Code.

36 The reference to the clerk of the "circuit" court where the appointment is

1 received is substituted for the former reference to the clerk of the court in
2 the "jurisdiction" for specificity.

3 The reference to an "appointment" being received is substituted for the
4 former reference to the "commission" for clarity and consistency with
5 terminology used throughout this subtitle.

6 Defined terms: "County" § 1-101

7 "Railroad police officer" § 3-401

8 3-409. BADGES AND IDENTIFICATION CARDS.

9 (A) BADGES.

10 EACH RAILROAD POLICE OFFICER WHO IS IN UNIFORM AND ON DUTY SHALL
11 WEAR IN PLAIN VIEW A BADGE THAT IDENTIFIES THE RAILROAD COMPANY THAT
12 EMPLOYS THE RAILROAD POLICE OFFICER.

13 (B) IDENTIFICATION CARDS.

14 EACH RAILROAD POLICE OFFICER SHALL CARRY AN IDENTIFICATION CARD
15 ISSUED BY THE RAILROAD COMPANY THAT EMPLOYS THE RAILROAD POLICE
16 OFFICER.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 23, § 262.

19 In subsection (a) of this section, the reference to the "railroad company
20 that employs the railroad police officer" is substituted for the former
21 phrase "appointing railroad employer" for consistency with terminology
22 used throughout this subtitle, as the Governor appoints railroad police
23 officers. Similarly, in subsection (b) of this section, the reference to the
24 "railroad company that employs the railroad police officer" is substituted
25 for the former phrase "appointing railroad".

26 Defined terms: "Railroad company" § 3-401

27 "Railroad police officer" § 3-401

28 3-410. COMPENSATION.

29 EACH RAILROAD POLICE OFFICER SHALL RECEIVE COMPENSATION FROM THE
30 RAILROAD COMPANY THAT EMPLOYS THE RAILROAD POLICE OFFICER.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 23, § 263.

33 The reference to the "railroad company that employs the railroad police
34 officer" is substituted for the former phrase "appointing railroad" for
35 consistency with terminology used throughout this subtitle, as the
36 Governor appoints railroad police officers.

1 Defined terms: "Railroad company" § 3-401

2 "Railroad police officer" § 3-401

3 3-411. TERM OF APPOINTMENT.

4 AN APPOINTMENT ISSUED UNDER THIS SUBTITLE REMAINS IN EFFECT UNTIL:

5 (1) TERMINATED BY THE RAILROAD COMPANY THAT EMPLOYS THE
6 RAILROAD POLICE OFFICER; OR

7 (2) REVOKED FOR CAUSE BY THE GOVERNOR.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 23, § 258(c).

10 In item (2) of this section, the reference to "the Governor" is substituted for
11 the former reference to "the issuing authority" for clarity, as the Governor
12 issues appointments under this subtitle.

13 Defined terms: "Railroad company" § 3-401

14 "Railroad police officer" § 3-401

15 3-412. END OF EMPLOYMENT.

16 (A) IN GENERAL.

17 EMPLOYMENT OF A RAILROAD POLICE OFFICER ENDS ON THE RETIREMENT,
18 RESIGNATION, OR TERMINATION OF THE RAILROAD POLICE OFFICER.

19 (B) EFFECT ON POWERS.

20 THE POWERS GRANTED TO A RAILROAD POLICE OFFICER UNDER THIS
21 SUBTITLE END WHEN THE EMPLOYMENT OF THE RAILROAD POLICE OFFICER ENDS.

22 (C) NOTICE.

23 WITHIN 10 DAYS AFTER THE EMPLOYMENT OF A RAILROAD POLICE OFFICER
24 ENDS, THE RAILROAD COMPANY THAT EMPLOYED THE RAILROAD POLICE OFFICER
25 SHALL FILE NOTICE WITH THE GOVERNOR THAT THE EMPLOYMENT HAS ENDED.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 23, § 264.

28 Throughout this section, references to employment "end[ing]" are
29 substituted for the former references to "terminat[ion]" of employment to
30 conform to language used in Title 2, Subtitle 4 of this article for police
31 employees and civilian employees of the Department of State Police.
32 Consequently, in subsection (a) of this section, the reference to
33 "termination" is substituted for the former reference to "discharge".

34 In subsection (c) of this section, the reference to the "railroad company that

1 employed the railroad police officer" is substituted for the former phrase
2 "appointing railroad" for consistency with terminology used throughout
3 this subtitle, as the Governor appoints railroad police officers.

4 Defined terms: "Railroad company" § 3-401

5 "Railroad police officer" § 3-401

6 3-413. CONFINEMENT OF ARRESTEES.

7 (A) IN GENERAL.

8 IF SUFFICIENT FACILITIES ARE AVAILABLE, THE PERSON IN CHARGE OF A JAIL
9 OR PLACE OF DETENTION SHALL RECEIVE AND CONFINED AN INDIVIDUAL ARRESTED
10 BY A RAILROAD POLICE OFFICER.

11 (B) STATUS.

12 AN INDIVIDUAL CONFINED UNDER SUBSECTION (A) OF THIS SECTION:

13 (1) IS DEEMED TO BE IN THE CUSTODY OF THE RAILROAD POLICE; AND

14 (2) HAS THE SAME STATUS AS AN INDIVIDUAL ARRESTED BY ANY OTHER
15 PEACE OR POLICE OFFICER OF THE STATE.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 23, § 261.

18 Throughout this section, references to an "individual" are substituted for
19 the former references to a "person[s]" because only an individual, and not
20 the other entities included in the defined term "person", can be arrested
21 and confined in a jail or place of detention. *See* § 1-101 of this article for
22 the definition of "person".

23 Defined term: "Railroad police officer" § 3-401

24 3-414. RECIPROCAL AGREEMENTS.

25 TO CARRY OUT THE PURPOSES OF THIS SUBTITLE, THE GOVERNOR MAY ENTER
26 INTO A RECIPROCAL AGREEMENT WITH THE GOVERNOR OF ANOTHER STATE TO
27 EMPOWER RAILROAD POLICE OFFICERS TO PERFORM POLICE FUNCTIONS
28 LAWFULLY EXERCISED BY AN OFFICER OF THE RECIPROCAL STATE THAT RELATE TO
29 THE PURPOSES DESCRIBED IN THIS SUBTITLE.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 23, § 265.

32 The phrase "in this subtitle" is substituted for the former phrase "in §§ 257
33 and 260 of this subheading" for clarity. The former cross-references
34 seemed overly specific and potentially misleading. Former Art. 23, §§
35 257(a) and 260(a) and (b), revised in §§ 3-402 and 3-406 of this subtitle,
36 described the purposes for which a railroad company may apply for the

1 appointment of railroad police officers and the powers that railroad police
2 officers are authorized to exercise. Although potentially broader in scope
3 than the former law, the phrase "in this subtitle" used in the revision is
4 intended to cover any powers or purposes added to this law in the future.
5 No substantive change is intended.

6 Defined terms: "Railroad police officer" § 3-401

7 "State" § 1-101

8 3-415. SHORT TITLE.

9 THIS SUBTITLE MAY BE CITED AS THE MARYLAND RAILROAD POLICE ACT.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 23, § 266.

12 SUBTITLE 5. MISCELLANEOUS PROVISIONS.

13 3-501. DISPOSAL OF HANDGUNS OWNED BY LAW ENFORCEMENT AGENCIES.

14 A LAW ENFORCEMENT AGENCY SEEKING TO DISPOSE OF A HANDGUN OWNED
15 BY THE AGENCY SHALL:

16 (1) DESTROY THE HANDGUN;

17 (2) SELL, EXCHANGE, OR TRANSFER THE HANDGUN TO ANOTHER LAW
18 ENFORCEMENT AGENCY FOR OFFICIAL USE BY THAT AGENCY;

19 (3) SELL THE HANDGUN TO A RETIRED POLICE EMPLOYEE IN
20 ACCORDANCE WITH § 2-415(C) OF THIS ARTICLE; OR

21 (4) SELL THE HANDGUN TO THE LAW ENFORCEMENT OFFICER TO
22 WHOM THE HANDGUN WAS ASSIGNED.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 27, § 36C-1.

25 In item (3) of this section, the reference to a retired "police employee" is
26 substituted for the former reference to a retired "State police officer" to
27 conform to terminology used in Title 2, Subtitle 4 of this article.

28 3-502. IMPERSONATING POLICE OFFICER.

29 (A) "POLICE OFFICER" DEFINED.

30 IN THIS SECTION, "POLICE OFFICER" MEANS A MEMBER OF:

31 (1) A POLICE FORCE OF THIS STATE OR ANOTHER STATE;

32 (2) A POLICE FORCE OF A COUNTY OR MUNICIPAL CORPORATION OF
33 THIS STATE OR ANOTHER STATE;

1 (3) THE UNITED STATES SECRET SERVICE UNIFORMED DIVISION;

2 (4) THE UNITED STATES PARK POLICE;

3 (5) THE FEDERAL BUREAU OF INVESTIGATION;

4 (6) THE DRUG ENFORCEMENT ADMINISTRATION; OR

5 (7) A DIVISION OF A FEDERAL AGENCY THE PRIMARY DUTIES OF WHICH
6 ARE THE INVESTIGATION, APPREHENSION, OR DETENTION OF INDIVIDUALS
7 SUSPECTED OR CONVICTED OF FEDERAL CRIMES.

8 (B) IMPERSONATING POLICE OFFICER PROHIBITED.

9 A PERSON MAY NOT, WITH FRAUDULENT DESIGN ON PERSON OR PROPERTY,
10 FALSELY REPRESENT THAT THE PERSON IS A POLICE OFFICER, SPECIAL POLICE
11 OFFICER, SHERIFF, DEPUTY SHERIFF, OR CONSTABLE.

12 (C) WEARING POLICE ARTICLES PROHIBITED.

13 EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A PERSON MAY
14 NOT HAVE, USE, WEAR, OR DISPLAY A UNIFORM, SHIELD, BUTTON, ORNAMENT,
15 BADGE, IDENTIFICATION, OR SHOULDER PATCH ADOPTED BY THE DEPARTMENT OF
16 STATE POLICE TO BE WORN BY ITS MEMBERS, INSIGNIA, OR EMBLEM OF OFFICE, AS
17 IS WORN BY A POLICE OFFICER, SHERIFF, DEPUTY SHERIFF, OR CONSTABLE.

18 (D) IMITATIONS OF POLICE ARTICLES PROHIBITED.

19 A PERSON MAY NOT, FOR THE PURPOSE OF DECEPTION, HAVE A SIMULATION
20 OR IMITATION OF AN ARTICLE DESCRIBED IN SUBSECTION (C) OF THIS SECTION AS IS
21 WORN BY A POLICE OFFICER, SHERIFF, DEPUTY SHERIFF, OR CONSTABLE.

22 (E) AUTHORITY TO WEAR POLICE ARTICLES.

23 A PERSON MAY HAVE, USE, WEAR, OR DISPLAY AN ARTICLE DESCRIBED IN
24 SUBSECTION (C) OF THIS SECTION WITH THE APPROPRIATE AUTHORITY OF:

25 (1) THE SECRETARY OF STATE POLICE;

26 (2) A POLICE FORCE OF ANOTHER STATE;

27 (3) THE POLICE COMMISSIONER OF BALTIMORE CITY;

28 (4) THE CHIEF OF POLICE OF A COUNTY OR MUNICIPAL CORPORATION
29 OF THIS STATE OR ANOTHER STATE;

30 (5) A SHERIFF OR DEPUTY SHERIFF;

31 (6) A CONSTABLE;

32 (7) THE UNITED STATES SECRET SERVICE UNIFORMED DIVISION;

- 1 (8) THE UNITED STATES PARK POLICE;
- 2 (9) THE FEDERAL BUREAU OF INVESTIGATION;
- 3 (10) THE DRUG ENFORCEMENT ADMINISTRATION; OR
- 4 (11) A DIVISION OF A FEDERAL AGENCY THE PRIMARY DUTIES OF WHICH
5 ARE THE INVESTIGATION, APPREHENSION, OR DETENTION OF INDIVIDUALS
6 SUSPECTED OR CONVICTED OF FEDERAL CRIMES.

7 (F) PENALTY.

8 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
9 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A
10 FINE NOT EXCEEDING \$100 OR BOTH.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 27, § 440.

13 In subsection (a)(2) of this section, the former reference to "Baltimore City"
14 is deleted in light of the definition of "county" in § 1-101 of this article.

15 In subsections (a)(7) and (e)(11) of this section, the reference to "federal
16 crimes" is substituted for the former reference to "offenses against the
17 criminal laws of the United States" for brevity.

18 In subsection (b) of this section, the defined term "police officer" is
19 substituted for the former phrase "member of a police force of the United
20 States or of this State or another state, of Baltimore City or of any county
21 or municipal corporation of the State or of another state" to use the defined
22 term. Similarly, in subsection (c) of this section, the defined term "police
23 officer" is substituted for the former phrase "members of the respective
24 police forces".

25 Also in subsection (b) of this section, the phrase "special police officer" is
26 substituted for the former reference to "special policeman" to conform to
27 terminology used in Subtitle 3 of this title.

28 In subsection (f) of this section, the former phrase "in the discretion of the
29 court" is deleted as implicit in the normal prerogatives of a court.

30 Defined terms: "County" § 1-101

31 "Person" § 1-101

32 "State" § 1-101

33 3-503. REGULATION OF SURVEILLANCE ACTIVITIES.

34 (A) LEGISLATIVE POLICY.

35 THE PURPOSE OF THIS SECTION IS TO PRESERVE, PROMOTE, AND PROTECT
36 PUBLIC SAFETY AND PEACE IN THE STATE.

1 (B) SCOPE OF SECTION.

2 THIS SECTION APPLIES TO AN AGENT, EMPLOYEE, OR REPRESENTATIVE OF
3 ANOTHER STATE OR A POLITICAL SUBDIVISION OF ANOTHER STATE WHO IS PRESENT
4 IN THIS STATE TO ENFORCE THE LAWS OF THE OTHER STATE.

5 (C) REGISTRATION REQUIRED.

6 (1) A PERSON SUBJECT TO THIS SECTION SHALL REGISTER WITH THE
7 LAW ENFORCEMENT AGENCY DESIGNATED BY THE GOVERNING BODY OF A COUNTY
8 WHEN THE PERSON ENTERS THE COUNTY FOR THE PURPOSE OF SURVEILLANCE OF
9 THE PRESENCE OR ACTIVITIES OF CUSTOMERS OR PATRONS OF A BUSINESS
10 ESTABLISHMENT IN THE STATE THAT IS ENGAGED IN THE LAWFUL SALE OR SUPPLY
11 OF GOODS OR SERVICES.

12 (2) WHEN REGISTERING, A PERSON SUBJECT TO THIS SECTION SHALL
13 PROVIDE:

14 (I) THE NAME AND ADDRESS OF THE PERSON;

15 (II) THE NAME OF THE PERSON'S EMPLOYER OR PRINCIPAL; AND

16 (III) THE LOCATION OF THE PROPOSED SURVEILLANCE.

17 (3) ON REQUEST, THE REGISTRATION RECORD SHALL BE MADE
18 AVAILABLE DURING NORMAL BUSINESS HOURS TO THE PUBLIC AND TO LAWFUL
19 BUSINESS OR COMMERCIAL ENTERPRISES IN THE STATE.

20 (D) SUSPENSION OF RIGHT TO REGISTER; SUSPENSION OF REGISTRATION.

21 (1) A PERSON WHO FAILS TO REGISTER IN ACCORDANCE WITH THIS
22 SECTION MAY NOT REGISTER FOR 6 MONTHS AFTER THE FAILURE TO REGISTER IS
23 JUDICIALLY DETERMINED.

24 (2) THE REGISTRATION OF A PERSON WHO VIOLATES THIS SECTION
25 SHALL BE SUSPENDED FOR 6 MONTHS AFTER THE VIOLATION IS JUDICIALLY
26 DETERMINED.

27 (E) CRIMINAL PENALTY.

28 A PERSON WHO VIOLATES THIS SECTION WHILE THE PERSON'S RIGHT TO
29 REGISTER IS SUSPENDED OR WHILE THE PERSON'S REGISTRATION IS SUSPENDED, IS
30 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT
31 NOT EXCEEDING 2 YEARS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 27, § 555.

34 Subsection (a) of this section is revised to set forth the purpose for
35 enactment of this section.

- 1 %In subsection (a) of this section, the former phrase "of the community" is
2 deleted as unclear and ambiguous.
- 3 Subsection (b) of this section is revised as a scope provision for brevity and
4 to clarify the applicability of this section.
- 5 In subsection (b) of this section, the former references to the "District of
6 Columbia" are deleted in light of the defined term "state" in § 1-101 of this
7 article.
- 8 In subsection (c)(1) and (2) of this section, the phrase "[a] person subject to
9 this section" is substituted for the former phrase "any agent, employee or
10 representative of another state or the District of Columbia, or any political
11 subdivision thereof" in light of subsection (b) of this section, which
12 establishes the scope of this section.
- 13 In subsection (c)(1) of this section, the former reference to "Baltimore City"
14 is deleted in light of the definition of "county" in § 1-101 of this article.
- 15 In subsection (c)(3) of this section, the reference to "the public" is
16 substituted for the former reference to "any citizen" for clarity, in light of
17 the fact that the term "citizen" is ambiguous.
- 18 In subsection (d) of this section, the former phrase "as the case may be" is
19 deleted as surplusage.
- 20 In subsection (e) of this section, the former phrase "in the discretion of the
21 court" is deleted as implicit in the normal prerogatives of a court.

22 Defined terms: "County" § 1-101

23 "Person" § 1-101

24 "State" § 1-101

25 TITLE 4. LAW ENFORCEMENT FUNDS.

26 SUBTITLE 1. PROTECTIVE BODY ARMOR FUND.

27 4-101. DEFINITIONS.

28 (A) IN GENERAL.

29 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

30 REVISOR'S NOTE: This subsection formerly was Art. 88B, § 30(a)(1).

31 In this subsection and throughout this subtitle, the word "subtitle" is
32 substituted for the former word "section" to reflect the reorganization of
33 former § 30 as a subtitle in this revision.

34 No other changes are made.

1 (B) FUND.

2 "FUND" MEANS THE PROTECTIVE BODY ARMOR FUND.

3 REVISOR'S NOTE: This subsection is new language derived without
4 substantive change from former Art. 88B, § 30(a)(2).

5 The former phrase "established under this section" is deleted as
6 unnecessary in a definition. The Fund is established by § 4-102 of this
7 subtitle and that provision stands on its own as a substantive provision.

8 (C) LOCAL LAW ENFORCEMENT AGENCY.

9 "LOCAL LAW ENFORCEMENT AGENCY" MEANS THE POLICE DEPARTMENT OF A
10 COUNTY OR MUNICIPAL CORPORATION IN THE STATE.

11 REVISOR'S NOTE: This subsection is new language derived without
12 substantive change from former Art. 88B, § 30(a)(3).

13 The reference to a "municipal corporation" is substituted for the former
14 reference to an "incorporated city or town" to conform to Md. Constitution,
15 Art. XI-E.

16 The former phrase "including Baltimore City" is deleted as unnecessary
17 because Baltimore City is included in the defined term "county". *See* §
18 1-101 of this article.

19 Defined term: "County" § 1-101

20 (D) PROTECTIVE BODY ARMOR.

21 "PROTECTIVE BODY ARMOR" MEANS A VEST OR SIMILAR ARTICLE THAT IS:

22 (1) DESIGNED TO BE WORN ON THE BODY TO PROTECT AGAINST BLUNT
23 FORCE TRAUMA ASSOCIATED WITH THE IMPACT OF A FIREARM PROJECTILE; AND

24 (2) MANUFACTURED OF BULLET RESISTANT FABRIC THAT CONFORMS
25 TO NATIONAL INSTITUTE OF JUSTICE (NIJ) STANDARD 0101.03 (OR THE CURRENT
26 EDITION) AND V-50 BALLISTIC TESTING REQUIREMENTS.

27 REVISOR'S NOTE: This subsection is new language derived without
28 substantive change from former Art. 88B, § 30(a)(4).

29 (E) SECRETARY.

30 "SECRETARY" MEANS THE SECRETARY OF STATE POLICE.

31 REVISOR'S NOTE: This subsection is new language added to avoid repetition
32 of the full title "Secretary of State Police".

1 4-102. PROTECTIVE BODY ARMOR FUND.

2 (A) ESTABLISHED.

3 THERE IS A PROTECTIVE BODY ARMOR FUND.

4 (B) PURPOSES.

5 THE PURPOSES OF THE FUND ARE TO ASSIST LOCAL LAW ENFORCEMENT
6 AGENCIES TO:

7 (1) ACQUIRE PROTECTIVE BODY ARMOR FOR EACH POLICE OFFICER OF
8 THE LOCAL LAW ENFORCEMENT AGENCY; AND

9 (2) REPLACE PROTECTIVE BODY ARMOR AT LEAST EVERY 10 YEARS, OR
10 SOONER IF TESTING INDICATES A NEED FOR REPLACEMENT.

11 (C) ADMINISTRATION.

12 THE SECRETARY SHALL ADMINISTER THE FUND.

13 (D) COMPOSITION.

14 THE FUND CONSISTS OF MONEY APPROPRIATED IN THE STATE BUDGET TO THE
15 FUND.

16 (E) PAYMENTS.

17 (1) AS AUTHORIZED BY THE SECRETARY, THE TREASURER SHALL MAKE
18 PAYMENTS OUT OF THE FUND TO LOCAL LAW ENFORCEMENT AGENCIES.

19 (2) A LOCAL LAW ENFORCEMENT AGENCY MAY USE STATE MONEY
20 PROVIDED UNDER THIS SUBTITLE ONLY TO PURCHASE OR REPLACE PROTECTIVE
21 BODY ARMOR.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 88B, § 30(b) and (c).

24 In subsection (b)(1) of this section, the defined term "local law enforcement
25 agency" is substituted for the former word "unit" for clarity and to use the
26 defined term.

27 In subsection (c) of this section, the former reference to administering the
28 Fund "in accordance with this section and other applicable law" is deleted
29 as implicit.

30 In subsection (d) of this section, the phrase "to the Fund" is added for
31 clarity and consistency with similar provisions throughout this article that
32 relate to the composition of a fund.

33 In subsection (e)(1) of this section, the former reference to the "State"

1 Treasurer is deleted as implicit.

2 In subsection (e)(2) of this section, the reference to State "money" is
3 substituted for the former reference to State "funds" to conform to
4 subsection (d) of this section and for consistency with terminology used
5 throughout this subtitle and this article.

6 Defined terms: "Fund" § 4-101

7 "Local law enforcement agency" § 4-101

8 "Protective body armor" § 4-101

9 "Secretary" § 4-101

10 4-103. APPLICATIONS FOR MONEY FROM FUND.

11 (A) PROCEDURES.

12 THE SECRETARY SHALL ESTABLISH PROCEDURES FOR LOCAL LAW
13 ENFORCEMENT AGENCIES TO APPLY FOR MONEY FROM THE FUND.

14 (B) CONTENTS OF APPLICATION.

15 A LOCAL LAW ENFORCEMENT AGENCY THAT APPLIES FOR MONEY FROM THE
16 FUND SHALL PROVIDE THE SECRETARY WITH THE FOLLOWING INFORMATION:

17 (1) THE NUMBER OF VIOLENT CRIME INCIDENTS COMMITTED WITHIN
18 THE JURISDICTION OF THE LOCAL LAW ENFORCEMENT AGENCY FOR THE LAST 2
19 YEARS;

20 (2) THE CURRENT NUMBER OF SWORN OFFICERS;

21 (3) THE CURRENT NUMBER OF SWORN OFFICERS NOT ASSIGNED
22 PROTECTIVE BODY ARMOR;

23 (4) THE NUMBER AND AGE OF PROTECTIVE BODY ARMOR UNITS
24 CURRENTLY IN USE BY THE LOCAL LAW ENFORCEMENT AGENCY;

25 (5) THE NUMBER OF PROTECTIVE BODY ARMOR UNITS REQUESTED:

26 (I) FOR OFFICERS NOT CURRENTLY ASSIGNED PROTECTIVE BODY
27 ARMOR; AND

28 (II) FOR OFFICERS ASSIGNED PROTECTIVE BODY ARMOR IN NEED
29 OF REPLACEMENT DUE TO AGE OR WEAR;

30 (6) THE REGULATIONS OF THE LOCAL LAW ENFORCEMENT AGENCY
31 THAT RELATE TO THE USE OF PROTECTIVE BODY ARMOR;

32 (7) THE LOCAL LAW ENFORCEMENT AGENCY'S BUDGET REQUEST FOR
33 SUPPLIES AND EQUIPMENT FOR THE CURRENT AND LAST 2 FISCAL YEARS; AND

1 (8) ANY OTHER INFORMATION THAT THE SECRETARY CONSIDERS
2 NECESSARY TO MAKE GRANTS FOR PROTECTIVE BODY ARMOR.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 88B, § 30(d).

5 In subsection (a) of this section, the former reference to "application"
6 procedures is deleted as redundant.

7 In subsection (b)(3) of this section, the reference to officers not "assigned"
8 protective body armor is substituted for the former reference to officers not
9 "issued" protective body armor for consistency with subsection (b)(5) of this
10 section.

11 In subsection (b)(4) of this section, the former reference to the "total"
12 number of protective body armor units is deleted as surplusage.

13 In subsection (b)(7) of this section, the former reference to a "copy" of the
14 local law enforcement agency's budget request is deleted as surplusage.

15 In subsection (b)(8) of this section, the reference to "grants" is substituted
16 for the former reference to "awards" for consistency with terminology used
17 throughout this subtitle and this article.

18 Defined terms: "Fund" § 4-101

19 "Local law enforcement agency" § 4-101

20 "Protective body armor" § 4-101

21 "Secretary" § 4-101

22 4-104. GRANTS FROM FUND.

23 (A) IN GENERAL.

24 (1) IN ACCORDANCE WITH THE STATE BUDGET, THE SECRETARY SHALL
25 MAKE GRANTS TO LOCAL LAW ENFORCEMENT AGENCIES TO PURCHASE AND
26 REPLACE PROTECTIVE BODY ARMOR BASED ON THE COMPARATIVE NEEDS OF EACH
27 LOCAL LAW ENFORCEMENT AGENCY AS DETERMINED BY THE CRITERIA SET FORTH
28 IN § 4-103(B) OF THIS SUBTITLE.

29 (2) A SINGLE GRANT MAY NOT INITIALLY EXCEED 10% OF THE TOTAL
30 MONEY BUDGETED IN THE FUND FOR ANY FISCAL YEAR.

31 (B) DISTRIBUTION OF REMAINING MONEY.

32 AFTER THE INITIAL ALLOCATION OF MONEY, THE SECRETARY MAY DISTRIBUTE
33 ANY MONEY REMAINING IN THE FUND ON AN EQUITABLE BASIS, AS DETERMINED BY
34 THE CRITERIA SET FORTH IN § 4-103(B) OF THIS SUBTITLE.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 88B, § 30(e).

1 %In subsection (a)(1) of this section, the reference to the duty of the
2 Secretary to "make grants" is substituted for the former reference to the
3 duty to "grant awards" for consistency with terminology used throughout
4 this subtitle and this article. Similarly, in subsection (a)(2) of this section,
5 the reference to a "grant" is substituted for the former reference to an
6 "award".

7 In subsection (b) of this section, the reference to any "money" remaining in
8 the Fund is substituted for the former reference to any "funds" remaining
9 for consistency with terminology used throughout this subtitle and this
10 article. Consequently, the reference to "money" is substituted for the
11 former reference to "aid" for consistency within this subsection.

12 Defined terms: "Fund" § 4-101

13 "Local law enforcement agency" § 4-101

14 "Protective body armor" § 4-101

15 "Secretary" § 4-101

16 4-105. MONEY ADDITIONAL TO OTHER APPROPRIATIONS; EXPENDITURES BY LOCAL
17 LAW ENFORCEMENT AGENCIES.

18 (A) MONEY ADDITIONAL TO OTHER APPROPRIATIONS.

19 A LOCAL LAW ENFORCEMENT AGENCY SHALL USE THE MONEY DISTRIBUTED
20 UNDER THIS SUBTITLE AS AN ADDITION TO AND NOT AS A SUBSTITUTE FOR MONEY
21 APPROPRIATED FROM SOURCES OTHER THAN THE FUND TO ACQUIRE OR REPLACE
22 PROTECTIVE BODY ARMOR.

23 (B) EXPENDITURES BY LOCAL LAW ENFORCEMENT AGENCIES.

24 (1) EACH LOCAL LAW ENFORCEMENT AGENCY SHALL SPEND MONEY
25 FROM ITS OWN SOURCES TO ACQUIRE OR REPLACE PROTECTIVE BODY ARMOR IN AN
26 AMOUNT AT LEAST EQUAL TO THE AMOUNT OF STATE MONEY AWARDED FROM THE
27 FUND.

28 (2) AFTER A LOCAL LAW ENFORCEMENT AGENCY RECEIVES NOTICE
29 FROM THE SECRETARY OF A GRANT, THE LOCAL LAW ENFORCEMENT AGENCY SHALL
30 SUBMIT TO THE SECRETARY PROOF OF EXPENDITURES ON PROTECTIVE BODY
31 ARMOR.

32 (3) AFTER CERTIFYING THE EXPENDITURES UNDER PARAGRAPH (2) OF
33 THIS SUBSECTION, THE SECRETARY MAY AUTHORIZE THE REIMBURSEMENT OF
34 ONE-HALF OF THE LOCAL LAW ENFORCEMENT AGENCY'S EXPENDITURES ON
35 PROTECTIVE BODY ARMOR, UP TO A MAXIMUM OF THE AMOUNT OF THE GRANT.

36 REVISOR'S NOTE: This section is new language derived without substantive
37 change from former Art. 88B, § 30(f) and (g).

38 In subsections (a) and (b)(1) of this section, the reference to "money" is
39 substituted for the former reference to "aid" for consistency with

1 terminology used throughout this subtitle and this article.

2 In subsection (b)(1) of this section, the reference to "spend[ing] money" is
3 substituted for the former reference to "expend[ing] funds" for clarity and
4 consistency throughout this subtitle and this article.

5 Defined terms: "Fund" § 4-101

6 "Local law enforcement agency" § 4-101

7 "Protective body armor" § 4-101

8 "Secretary" § 4-101

9 4-106. BULK PURCHASE ENCOURAGED.

10 TO REDUCE THE COST OF PROTECTIVE BODY ARMOR, THE SECRETARY SHOULD
11 ENCOURAGE THE BULK PURCHASE OF PROTECTIVE BODY ARMOR.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 88B, § 30(h).

14 Defined terms: "Protective body armor" § 4-101

15 "Secretary" § 4-101

16 4-107. ANNUAL REPORT.

17 ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE SECRETARY SHALL REPORT
18 TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE,
19 TO THE GENERAL ASSEMBLY ON:

20 (1) THE DISTRIBUTION OF MONEY UNDER THIS SUBTITLE; AND

21 (2) THE RATIO OF PROTECTIVE BODY ARMOR TO POLICE OFFICERS IN
22 EACH LOCAL JURISDICTION OF THE STATE THAT APPLIED FOR MONEY FROM THE
23 FUND.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 88B, § 30(i).

26 In items (1) and (2) of this section, the reference to "money" is substituted
27 for the former reference to "aid" for consistency with terminology used
28 throughout this subtitle and this article.

29 Defined terms: "Fund" § 4-101

30 "Protective body armor" § 4-101

31 "Secretary" § 4-101

32 SUBTITLE 2. SCHOOL BUS SAFETY ENFORCEMENT FUND.

33 4-201. DEFINITIONS.

34 (A) IN GENERAL.

1 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

2 REVISOR'S NOTE: This subsection formerly was Art. 88B, § 82(a).

3 No changes are made.

4 (B) FUND.

5 "FUND" MEANS THE SCHOOL BUS SAFETY ENFORCEMENT FUND.

6 REVISOR'S NOTE: This subsection formerly was Art. 88B, § 82(b).

7 No changes are made.

8 (C) LAW ENFORCEMENT AGENCY.

9 "LAW ENFORCEMENT AGENCY" MEANS THE DEPARTMENT OF STATE POLICE,
10 THE POLICE DEPARTMENT OF A COUNTY OR MUNICIPAL CORPORATION, OR A
11 SHERIFF'S OFFICE.

12 REVISOR'S NOTE: This subsection is new language derived without
13 substantive change from former Art. 88B, § 82(c).

14 The reference to the Department "of State Police" is added for clarity.

15 Defined term: "County" § 1-101

16 (D) SCHOOL VEHICLE.

17 "SCHOOL VEHICLE" HAS THE MEANING STATED IN § 11-154 OF THE
18 TRANSPORTATION ARTICLE.

19 REVISOR'S NOTE: This subsection formerly was Art. 88B, § 82(d).

20 No changes are made.

21 (E) SECRETARY.

22 "SECRETARY" MEANS THE SECRETARY OF STATE POLICE.

23 REVISOR'S NOTE: This subsection is new language added to avoid repetition
24 of the full title "Secretary of State Police".

25 4-202. SCHOOL BUS SAFETY ENFORCEMENT FUND.

26 (A) ESTABLISHED.

27 THERE IS A SCHOOL BUS SAFETY ENFORCEMENT FUND.

28 (B) PURPOSE.

1 THE PURPOSE OF THE FUND IS TO ASSIST LAW ENFORCEMENT AGENCIES IN
2 ADDRESSING THE PROBLEM OF DRIVERS ILLEGALLY FAILING TO STOP FOR SCHOOL
3 VEHICLES.

4 (C) ADMINISTRATION.

5 (1) THE SECRETARY SHALL ADMINISTER THE FUND.

6 (2) THE SECRETARY SHALL RECEIVE FROM THE FUND EACH FISCAL
7 YEAR THE AMOUNT, NOT EXCEEDING \$50,000 IN A FISCAL YEAR, NECESSARY TO
8 OFFSET ITS COSTS IN ADMINISTERING THIS SUBTITLE.

9 (D) STATUS.

10 (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT
11 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

12 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE
13 COMPTROLLER SHALL ACCOUNT FOR THE FUND IN CONJUNCTION WITH THE
14 SECRETARY.

15 (E) COMPOSITION.

16 THE FUND CONSISTS OF:

17 (1) MONEY CREDITED TO THE FUND UNDER § 17-106(E) OF THE
18 TRANSPORTATION ARTICLE;

19 (2) MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF
20 THE FUND; AND

21 (3) INVESTMENT EARNINGS OF THE FUND.

22 (F) INVESTMENTS.

23 THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME
24 MANNER AS OTHER STATE MONEY MAY BE INVESTED.

25 (G) EXPENDITURES.

26 EXPENDITURES FROM THE FUND MAY ONLY BE MADE:

27 (1) IN ACCORDANCE WITH THE STATE BUDGET; OR

28 (2) BY THE BUDGET AMENDMENT PROCEDURE AS PROVIDED IN § 7-209
29 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, IF AT LEAST 45 DAYS HAVE
30 PASSED SINCE THE BUDGET AMENDMENT AND SUPPORTING INFORMATION WERE
31 SUBMITTED TO THE BUDGET COMMITTEES FOR THEIR REVIEW AND COMMENT.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 88B, § 83(a), (b), (c), (e), and (d)(1), (2), and (3).

1 %In subsection (b) of this section, the phrase "failing to stop for" school
2 vehicles is substituted for the former word "passing" school vehicles for
3 accuracy and consistency within this subtitle. *See* § 4-203(b) and (c) of this
4 subtitle.

5 In subsections (c)(2) and (d)(2) of this section, the reference to the
6 "Secretary" is substituted for the former reference to the "Department" for
7 consistency within this section.

8 In subsections (d)(2) and (f) of this section, the former reference to the
9 "State" Treasurer is deleted as implicit. Similarly, in subsection (d)(2) of
10 this section, the former reference to the "State" Comptroller is deleted.

11 In subsection (d)(2) of this section, the word "separately" is added to modify
12 "hold" to clarify that the Treasurer shall keep the Fund separate from
13 other State funds. This language is standard language used for special
14 funds. *See, e.g.*, CS § 10-503(a)(3).

15 In subsection (e)(2) of this section, the general reference to "any other
16 source" is substituted for the former reference to "any governmental or
17 private source" for consistency with similar provisions throughout this
18 article.

19 Defined terms: "Fund" § 4-201

20 "Law enforcement agency" § 4-201

21 "School vehicle" § 4-201

22 "Secretary" § 4-201

23 4-203. GRANTS FROM FUND.

24 (A) IN GENERAL.

25 THE SECRETARY MAY MAKE GRANTS TO LAW ENFORCEMENT AGENCIES FROM
26 THE FUND.

27 (B) APPLICATION PROCEDURES.

28 THE SECRETARY SHALL ESTABLISH PROCEDURES FOR LAW ENFORCEMENT
29 AGENCIES TO APPLY FOR GRANTS FROM THE FUND AND FOR THE EVALUATION OF
30 PROGRESS IN ADDRESSING THE PROBLEM OF DRIVERS ILLEGALLY FAILING TO STOP
31 FOR SCHOOL VEHICLES.

32 (C) FACTORS CONSIDERED.

33 WHEN MAKING GRANTS FROM THE FUND, THE SECRETARY SHALL CONSIDER:

34 (1) THE EXTENT OF THE PROBLEM OF DRIVERS ILLEGALLY FAILING TO
35 STOP FOR SCHOOL VEHICLES IN THE AREA IDENTIFIED BY THE LAW ENFORCEMENT
36 AGENCY APPLYING FOR A GRANT;

1 (2) THE LAW ENFORCEMENT AGENCY'S GOALS AND PLANS WITH
 2 RESPECT TO ENHANCED ENFORCEMENT EFFORTS THAT RELATE TO § 21-706 OF THE
 3 TRANSPORTATION ARTICLE; AND

4 (3) OTHER FACTORS THAT THE SECRETARY CONSIDERS APPROPRIATE
 5 THAT RELATE TO DRIVERS ILLEGALLY FAILING TO STOP FOR SCHOOL VEHICLES.

6 (D) LIMITATION ON AMOUNT OF GRANT.

7 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
 8 SECRETARY MAY NOT MAKE A GRANT FROM THE FUND EXCEEDING \$35,000 IN A
 9 FISCAL YEAR FOR USE IN A SINGLE COUNTY.

10 (2) IF MONEY REMAINS AVAILABLE IN THE FUND AFTER GRANTS ARE
 11 INITIALLY AWARDED IN A FISCAL YEAR, THE SECRETARY MAY MAKE SUPPLEMENTAL
 12 GRANTS TO LAW ENFORCEMENT AGENCIES IN ACCORDANCE WITH PROCEDURES
 13 ESTABLISHED BY THE SECRETARY.

14 (E) USE OF GRANTS.

15 A LAW ENFORCEMENT AGENCY THAT RECEIVES A GRANT UNDER THIS
 16 SUBTITLE:

17 (1) MAY USE THE GRANT ONLY IN ACCORDANCE WITH THE TERMS OF
 18 THE GRANT FOR EFFORTS THAT RELATE TO THE ENFORCEMENT OF § 21-706 OF THE
 19 TRANSPORTATION ARTICLE; AND

20 (2) SHALL COMPLY WITH REPORTING REQUIREMENTS ESTABLISHED BY
 21 THE SECRETARY TO EVALUATE:

22 (I) THE LAW ENFORCEMENT AGENCY'S ENFORCEMENT EFFORTS
 23 UNDER THE GRANT; AND

24 (II) STATEWIDE ENFORCEMENT EFFORTS UNDER THIS SUBTITLE.

25 REVISOR'S NOTE: This section is new language derived without substantive
 26 change from former Art. 88B, §§ 84, 85, and 83(d)(4).

27 In subsection (e)(2)(i) and (ii) of this section, the word "enforcement" is
 28 added to modify the reference to "efforts" for clarity and consistency with
 29 subsection (c)(2) of this section.

30 Defined terms: "County" § 1-101

31 "Fund" § 4-201

32 "Law enforcement agency" § 4-201

33 "Secretary" § 4-201

1 4-204. ANNUAL REPORT.

2 ON OR BEFORE MARCH 1 OF EACH YEAR, THE SECRETARY SHALL REPORT TO
3 THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO
4 THE GENERAL ASSEMBLY ON:

5 (1) THE STATUS OF THE FUND;

6 (2) THE GRANTS MADE UNDER THIS SUBTITLE;

7 (3) THE COSTS OF ADMINISTERING THIS SUBTITLE; AND

8 (4) THE EFFECT OF THIS SUBTITLE IN REDUCING THE PROBLEM OF
9 DRIVERS ILLEGALLY FAILING TO STOP FOR SCHOOL VEHICLES.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 88B, § 86.

12 In the introductory language of this section, the former phrase "on or
13 before March 1, 2002" is deleted as obsolete and unnecessary given the
14 ongoing reporting requirement.

15 In item (4) of this section, the reference to "illegally" failing to stop is added
16 for clarity and consistency throughout this subtitle.

17 Defined terms: "Fund" § 4-201

18 "School vehicle" § 4-201

19 "Secretary" § 4-201

20 SUBTITLE 3. LAW ENFORCEMENT EQUIPMENT FUND.

21 4-301. DEFINITIONS.

22 (A) IN GENERAL.

23 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

24 REVISOR'S NOTE: This subsection formerly was Art. 41, § 4-101(a)(1).

25 In this subsection and throughout this subtitle, the word "subtitle" is
26 substituted for the former word "section" to reflect the reorganization of
27 former § 4-101 as a subtitle in this revision.

28 No other changes are made.

29 (B) EXECUTIVE DIRECTOR.

30 "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE
31 GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION.

32 REVISOR'S NOTE: This subsection formerly was Art. 41, § 4-101(a)(2).

1 %No changes are made.

2 (C) FUND.

3 "FUND" MEANS THE LAW ENFORCEMENT EQUIPMENT FUND.

4 REVISOR'S NOTE: This subsection is new language derived without
5 substantive change from former Art. 41, § 4-101(a)(3).

6 The former phrase "established under this section" is deleted as
7 unnecessary in a definition. The Fund is established by § 4-302 of this
8 subtitle and that provision stands on its own as a substantive provision.

9 (D) LAW ENFORCEMENT EQUIPMENT.

10 (1) "LAW ENFORCEMENT EQUIPMENT" MEANS EQUIPMENT USED FOR
11 LAW ENFORCEMENT PURPOSES.

12 (2) "LAW ENFORCEMENT EQUIPMENT" INCLUDES BODY ARMOR, CRIME
13 TRACKING TECHNOLOGY, PHOTO IMAGING EQUIPMENT, SURVEILLANCE DEVICES,
14 WEAPONS, AMMUNITION, AND COMMUNICATION DEVICES.

15 REVISOR'S NOTE: This subsection formerly was Art. 41, § 4-101(a)(5).

16 The only changes are in style.

17 (E) LOCAL LAW ENFORCEMENT AGENCY.

18 "LOCAL LAW ENFORCEMENT AGENCY" MEANS THE AGENCY OF A COUNTY OR
19 MUNICIPAL CORPORATION IN THE STATE THAT PERFORMS POLICE PROTECTION
20 FUNCTIONS.

21 REVISOR'S NOTE: This subsection is new language derived without
22 substantive change from former Art. 41, § 4-101(a)(4).

23 The former phrase "including Baltimore City" is deleted as unnecessary
24 because Baltimore City is included in the defined term "county". *See* §
25 1-101 of this article.

26 Defined term: "County" § 1-101

27 4-302. LAW ENFORCEMENT EQUIPMENT FUND.

28 (A) ESTABLISHED.

29 THERE IS A LAW ENFORCEMENT EQUIPMENT FUND.

30 (B) PURPOSE.

1 THE PURPOSE OF THE FUND IS TO ASSIST LOCAL LAW ENFORCEMENT
2 AGENCIES IN ACQUIRING LAW ENFORCEMENT EQUIPMENT NEEDED TO ADDRESS
3 VIOLENT CRIME.

4 (C) ADMINISTRATION.

5 THE EXECUTIVE DIRECTOR SHALL ADMINISTER THE FUND.

6 (D) STATUS.

7 (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT
8 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

9 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE
10 COMPTROLLER SHALL ACCOUNT FOR THE FUND IN CONJUNCTION WITH THE
11 EXECUTIVE DIRECTOR.

12 (E) COMPOSITION.

13 THE FUND CONSISTS OF MONEY APPROPRIATED IN THE STATE BUDGET TO THE
14 FUND.

15 (F) INVESTMENTS.

16 THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME
17 MANNER AS OTHER STATE MONEY MAY BE INVESTED.

18 (G) PAYMENTS.

19 AS AUTHORIZED BY THE EXECUTIVE DIRECTOR, THE TREASURER SHALL MAKE
20 PAYMENTS OUT OF THE FUND TO LOCAL LAW ENFORCEMENT AGENCIES.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 41, § 4-101(b) and (c).

23 In subsection (c) of this section, the former reference to administering the
24 Fund "in accordance with this section and other applicable law" is deleted
25 as implicit.

26 In subsection (d)(1) of this section, the reference to a "special" fund is
27 substituted for the former reference to a "continuing" fund for consistency
28 with similar provisions throughout this article that relate to the status of
29 funds.

30 In subsection (e) of this section, the phrase "to the Fund" is added for
31 consistency with similar provisions throughout this article that relate to
32 the composition of a fund.

33 In subsection (f) of this section, the word "shall" is substituted for the
34 former word "may" because the Treasurer has no discretion in how money
35 in this particular Fund is invested. The Public Safety Article Review

1 Committee calls this substitution to the attention of the General Assembly.

2 In subsection (g) of this section, the former reference to the "State"
3 Treasurer is deleted as implicit and for consistency with subsections (d)(2)
4 and (f) of this section.

5 Defined terms: "Executive Director" § 4-301

6 "Fund" § 4-301

7 "Law enforcement equipment" § 4-301

8 "Local law enforcement agency" § 4-301

9 4-303. GRANTS FROM FUND.

10 (A) APPLICATION PROCEDURES.

11 THE EXECUTIVE DIRECTOR SHALL ESTABLISH PROCEDURES FOR LOCAL LAW
12 ENFORCEMENT AGENCIES TO APPLY FOR MONEY FROM THE FUND, WITH PRIORITY
13 GIVEN TO THOSE JURISDICTIONS WITH THE HIGHEST INCIDENCE OF VIOLENT
14 CRIME.

15 (B) CONTENTS OF APPLICATION.

16 A LOCAL LAW ENFORCEMENT AGENCY THAT APPLIES FOR MONEY FROM THE
17 FUND SHALL PROVIDE THE EXECUTIVE DIRECTOR WITH:

18 (1) INFORMATION ON THE NUMBER OF VIOLENT CRIME INCIDENTS
19 COMMITTED WITHIN THE JURISDICTION OF THE LOCAL LAW ENFORCEMENT
20 AGENCY FOR THE LAST 2 YEARS; AND

21 (2) ANY OTHER INFORMATION THAT THE EXECUTIVE DIRECTOR
22 CONSIDERS NECESSARY TO MAKE GRANTS FOR LAW ENFORCEMENT EQUIPMENT.

23 (C) COMPARATIVE NEEDS OF LOCAL LAW ENFORCEMENT AGENCIES.

24 IN ACCORDANCE WITH THE STATE BUDGET, THE EXECUTIVE DIRECTOR SHALL
25 MAKE GRANTS TO LOCAL LAW ENFORCEMENT AGENCIES TO PURCHASE OR REPLACE
26 LAW ENFORCEMENT EQUIPMENT BASED ON THE COMPARATIVE NEEDS OF EACH
27 LOCAL LAW ENFORCEMENT AGENCY AS DETERMINED FROM THE INFORMATION
28 PROVIDED UNDER SUBSECTION (B) OF THIS SECTION.

29 (D) PROOF OF EXPENDITURES.

30 AFTER A LOCAL LAW ENFORCEMENT AGENCY RECEIVES NOTICE FROM THE
31 EXECUTIVE DIRECTOR OF A GRANT, THE LOCAL LAW ENFORCEMENT AGENCY SHALL
32 SUBMIT TO THE EXECUTIVE DIRECTOR PROOF OF EXPENDITURES ON LAW
33 ENFORCEMENT EQUIPMENT.

34 (E) MONEY TO SUPPLEMENT OTHER FUNDING.

35 MONEY DISTRIBUTED UNDER THIS SUBTITLE SHALL BE USED TO SUPPLEMENT,
36 NOT SUPPLANT, OTHER LOCAL LAW ENFORCEMENT FUNDING.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 41, § 4-101(d), (e), (f), and (g).

3 In subsections (a), the introductory language of (b), and (e) of this section,
4 the reference to "money" is substituted for the former reference to "aid" for
5 consistency with terminology used throughout this section and this article.

6 In subsection (a) of this section, the former reference to "application"
7 procedures is deleted as redundant.

8 In subsection (d) of this section, the former reference to a grant "award" is
9 deleted as redundant.

10 Defined terms: "Executive Director" § 4-301

11 "Fund" § 4-301

12 "Law enforcement equipment" § 4-301

13 "Local law enforcement agency" § 4-301

14 4-304. ANNUAL REPORT.

15 ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE EXECUTIVE DIRECTOR SHALL
16 REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT
17 ARTICLE, TO THE GENERAL ASSEMBLY ON THE DISTRIBUTION OF MONEY UNDER
18 THIS SUBTITLE.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 41, § 4-101(h).

21 The reference to "money" is substituted for the former reference to "aid" for
22 consistency with terminology used throughout this subtitle and this
23 article.

24 Defined term: "Executive Director" § 4-301

25 TITLE 5. FIREARMS.

26 SUBTITLE 1. REGULATED FIREARMS.

27 5-101. DEFINITIONS.

28 (A) IN GENERAL.

29 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

30 REVISOR'S NOTE: This subsection is new language derived without
31 substantive change from former Art. 27, § 441(a).

32 %The reference to this "subtitle" is substituted for the former reference to
33 this "subheading" to reflect the reorganization of the former statutory
34 provisions on regulated firearms in this subtitle.

1 (B) ANTIQUE FIREARM.

2 "ANTIQUE FIREARM" HAS THE MEANING STATED IN § 4-201 OF THE CRIMINAL
3 LAW ARTICLE.

4 REVISOR'S NOTE: This subsection is new language derived without
5 substantive change from former Art. 27, § 441(c).

6 This subsection is revised to conform to the definition of "antique firearm"
7 in CR § 4-201 to avoid the possibility of unintended language variations if
8 the definition in the Criminal Law Article is amended in the future.
9 Former Art. 27, § 36F(c), from which CR § 4-201(b) was derived, and
10 former Art. 27, § 441(c), from which this subsection is derived, were
11 substantially identical provisions.

12 Defined term: "Firearm" § 5-101

13 (C) CRIME OF VIOLENCE.

14 "CRIME OF VIOLENCE" MEANS:

15 (1) ABDUCTION;

16 (2) ARSON IN THE FIRST DEGREE;

17 (3) ASSAULT IN THE FIRST OR SECOND DEGREE;

18 (4) BURGLARY IN THE FIRST, SECOND, OR THIRD DEGREE;

19 (5) CARJACKING AND ARMED CARJACKING;

20 (6) ESCAPE IN THE FIRST DEGREE;

21 (7) KIDNAPPING;

22 (8) VOLUNTARY MANSLAUGHTER;

23 (9) MAIMING AS PREVIOUSLY PROSCRIBED UNDER FORMER ARTICLE 27,
24 § 386 OF THE CODE;

25 (10) MAYHEM AS PREVIOUSLY PROSCRIBED UNDER FORMER ARTICLE 27,
26 § 384 OF THE CODE;

27 (11) MURDER IN THE FIRST OR SECOND DEGREE;

28 (12) RAPE IN THE FIRST OR SECOND DEGREE;

29 (13) ROBBERY;

30 (14) ROBBERY WITH A DANGEROUS WEAPON;

1 (15) SEXUAL OFFENSE IN THE FIRST, SECOND, OR THIRD DEGREE;

2 (16) AN ATTEMPT TO COMMIT ANY OF THE CRIMES LISTED IN ITEMS (1)
3 THROUGH (15) OF THIS SUBSECTION; OR

4 (17) ASSAULT WITH INTENT TO COMMIT ANY OF THE CRIMES LISTED IN
5 ITEMS (1) THROUGH (15) OF THIS SUBSECTION OR A CRIME PUNISHABLE BY
6 IMPRISONMENT FOR MORE THAN 1 YEAR.

7 REVISOR'S NOTE: This subsection is new language derived without
8 substantive change from former Art. 27, § 441(e).

9 In item (9) of this subsection, the reference to "former Article 27, § 386 of
10 the Code" is added because the crime of maiming, which was set out in
11 former Art. 27, § 386, was repealed by Chapter 632, Acts of 1996. Similarly,
12 in item (10) of this subsection, the reference to "former Article 27, § 384 of
13 the Code" refers to provisions that were repealed by Chapter 632, Acts of
14 1996.

15 In items (13) and (14) of this subsection, references to "robbery" and
16 "robbery with a dangerous weapon" are substituted for the former
17 reference to "[r]obbery under § 486 or § 487 of this article" for clarity.

18 In items (16) and (17) of this subsection, the references to "crime[s]" are
19 substituted for the former references to "offense[s]" for consistency with
20 the Criminal Procedure Article and the Criminal Law Article.

21 (D) DEALER.

22 "DEALER" MEANS A PERSON WHO IS ENGAGED IN THE BUSINESS OF:

23 (1) SELLING, RENTING, OR TRANSFERRING FIREARMS AT WHOLESALE
24 OR RETAIL; OR

25 (2) REPAIRING FIREARMS.

26 REVISOR'S NOTE: This subsection is new language derived without
27 substantive change from former Art. 27, § 441(f).

28 Defined terms: "Firearm" § 5-101

29 "Person" § 1-101

30 (E) DEALER'S LICENSE.

31 "DEALER'S LICENSE" MEANS A STATE REGULATED FIREARMS DEALER'S
32 LICENSE.

33 REVISOR'S NOTE: This subsection is new language derived without
34 substantive change from former Art. 27, § 441(s), except for the reference
35 concerning issuance by the Secretary.

1 %This subsection defines the term "[d]ealer's license" instead of "[r]egulated
2 firearms dealer" for convenience. In this subtitle, the defined term
3 "licensee" is used to denote a holder of a regulated firearms dealer's
4 license.

5 The former reference to a "valid" State regulated firearms dealer's license
6 is deleted as implicit in the reference to a dealer's "license".

7 Defined term: "Regulated firearm" § 5-101

8 (F) DESIGNATED LAW ENFORCEMENT AGENCY.

9 "DESIGNATED LAW ENFORCEMENT AGENCY" MEANS A LAW ENFORCEMENT
10 AGENCY THAT THE SECRETARY DESIGNATES TO PROCESS APPLICATIONS TO
11 PURCHASE REGULATED FIREARMS FOR SECONDARY SALES.

12 REVISOR'S NOTE: This subsection is new language derived without
13 substantive change from former Art. 27, § 441(g).

14 The former reference to a law enforcement agency that is "approved" by
15 the Secretary is deleted as included in the reference to a law enforcement
16 agency that the Secretary "designates".

17 Defined terms: "Regulated firearm" § 5-101

18 "Secondary sale" § 5-101

19 "Secretary" § 5-101

20 (G) DISQUALIFYING CRIME.

21 "DISQUALIFYING CRIME" MEANS:

22 (1) A CRIME OF VIOLENCE;

23 (2) A VIOLATION CLASSIFIED AS A FELONY IN THE STATE; OR

24 (3) A VIOLATION CLASSIFIED AS A MISDEMEANOR IN THE STATE THAT
25 CARRIES A STATUTORY PENALTY OF MORE THAN 2 YEARS.

26 REVISOR'S NOTE: This subsection is new language derived without
27 substantive change from former Art. 27, §§ 442(h)(2)(i)1, 2, and 3;
28 443(e)(4)(iii)1, 2, and 3; (j)(2)(i), (ii), and (iii); and 445(b)(3) and (1)(i), (iii),
29 and, except for reference to conspiracy to commit certain crimes, (ii); and
30 (d)(3) and (1)(i), (ii), and (iii).

31 The term "disqualifying crime" is added to avoid the repetition of the
32 phrases "a crime of violence", "any violation classified as a felony in this
33 State", and "any violation classified as a misdemeanor in this State that
34 carries a statutory penalty of more than 2 years".

35 Defined term: "Crime of violence" § 5-101

1 (H) FIREARM.

2 (1) "FIREARM" MEANS:

3 (I) A WEAPON THAT EXPELS, IS DESIGNED TO EXPEL, OR MAY
4 READILY BE CONVERTED TO EXPEL A PROJECTILE BY THE ACTION OF AN EXPLOSIVE;
5 OR

6 (II) THE FRAME OR RECEIVER OF SUCH A WEAPON.

7 (2) "FIREARM" INCLUDES A STARTER GUN.

8 REVISOR'S NOTE: This subsection is new language derived without
9 substantive change from former Art. 27, § 441(i).

10 (I) FIREARM APPLICANT.

11 "FIREARM APPLICANT" MEANS A PERSON WHO MAKES A FIREARM
12 APPLICATION.

13 REVISOR'S NOTE: This subsection is new language derived without
14 substantive change from the first clause of former Art. 27, § 442(f)(1).

15 It is revised as a defined term to provide a concise reference to a person
16 who makes a firearm application.

17 Defined terms: "Firearm application" § 5-101

18 "Person" § 1-101

19 (J) FIREARM APPLICATION.

20 "FIREARM APPLICATION" MEANS AN APPLICATION TO PURCHASE, RENT, OR
21 TRANSFER A REGULATED FIREARM.

22 REVISOR'S NOTE: This subsection is new language added to provide a concise
23 reference to an application to purchase, rent, or transfer a regulated
24 firearm.

25 Defined term: "Regulated firearm" § 5-101

26 (K) FUGITIVE FROM JUSTICE.

27 "FUGITIVE FROM JUSTICE" MEANS A PERSON WHO HAS FLED TO AVOID
28 PROSECUTION OR GIVING TESTIMONY IN A CRIMINAL PROCEEDING.

29 REVISOR'S NOTE: This subsection is new language derived without
30 substantive change from former Art. 27, § 441(j).

31 The former reference to avoiding prosecution "for a crime" is deleted as
32 surplusage.

1 %The Public Safety Article Review Committee notes, for consideration by the
2 General Assembly, that the former reference to a person who has fled "from
3 a sheriff or other peace officer within this State, or who has fled from any
4 state, the District of Columbia, or territory or possession of the United
5 States" is deleted for brevity. A person who has fled to avoid prosecution or
6 giving testimony in a criminal proceeding is a fugitive from justice,
7 regardless of from whom or where the person has fled.

8 Defined term: "Person" § 1-101

9 (L) HABITUAL DRUNKARD.

10 "HABITUAL DRUNKARD" MEANS A PERSON WHO HAS BEEN FOUND GUILTY OF
11 ANY THREE CRIMES UNDER § 21-902(A), (B), OR (C) OF THE TRANSPORTATION
12 ARTICLE, ONE OF WHICH OCCURRED IN THE PAST YEAR.

13 REVISOR'S NOTE: This subsection is new language derived without
14 substantive change from former Art. 27, § 441(b) and (l).

15 The former defined term "alcohol offense" is revised as part of this
16 subsection because this subsection is the only provision in this subtitle in
17 which the former defined term is used.

18 The reference to "crimes" is substituted for the former reference to
19 "offenses" for consistency with the Criminal Procedure Article and the
20 Criminal Law Article.

21 Defined term: "Person" § 1-101

22 (M) HABITUAL USER.

23 "HABITUAL USER" MEANS A PERSON WHO HAS BEEN FOUND GUILTY OF TWO
24 CONTROLLED DANGEROUS SUBSTANCE CRIMES, ONE OF WHICH OCCURRED IN THE
25 PAST 5 YEARS.

26 REVISOR'S NOTE: This subsection is new language derived without
27 substantive change from former Art. 27, § 441(m).

28 The reference to "crimes" is substituted for the former reference to
29 "offenses" for consistency with the Criminal Procedure Article and the
30 Criminal Law Article.

31 The former reference to a habitual user "of controlled dangerous
32 substances" is deleted as unnecessary in light of the reference to a person
33 who has been found guilty "of two controlled dangerous substances"
34 crimes.

35 Defined term: "Person" § 1-101

36 (N) HANDGUN.

1 (1) "HANDGUN" MEANS A FIREARM WITH A BARREL LESS THAN 16
2 INCHES IN LENGTH.

3 (2) "HANDGUN" INCLUDES SIGNAL, STARTER, AND BLANK PISTOLS.

4 REVISOR'S NOTE: This subsection is new language derived without
5 substantive change from former Art. 27, § 441(n).

6 Defined term: "Firearm" § 5-101

7 (O) LICENSEE.

8 "LICENSEE" MEANS A PERSON WHO HOLDS A DEALER'S LICENSE.

9 REVISOR'S NOTE: This subsection is new language added to provide a concise
10 reference to a person who holds a dealer's license.

11 Defined terms: "Dealer's license" § 5-101

12 "Person" § 1-101

13 (P) REGULATED FIREARM.

14 "REGULATED FIREARM" MEANS:

15 (1) A HANDGUN; OR

16 (2) A FIREARM THAT IS ANY OF THE FOLLOWING SPECIFIC ASSAULT
17 WEAPONS OR THEIR COPIES, REGARDLESS OF WHICH COMPANY PRODUCED AND
18 MANUFACTURED THAT ASSAULT WEAPON:

19 (I) AMERICAN ARMS SPECTRE DA SEMIAUTOMATIC CARBINE;

20 (II) AK-47 IN ALL FORMS;

21 (III) ALGIMEC AGM-1 TYPE SEMI-AUTO;

22 (IV) AR 100 TYPE SEMI-AUTO;

23 (V) AR 180 TYPE SEMI-AUTO;

24 (VI) ARGENTINE L.S.R. SEMI-AUTO;

25 (VII) AUSTRALIAN AUTOMATIC ARMS SAR TYPE SEMI-AUTO;

26 (VIII) AUTO-ORDNANCE THOMPSON M1 AND 1927
27 SEMI-AUTOMATICS;

28 (IX) BARRETT LIGHT .50 CAL. SEMI-AUTO;

29 (X) BERETTA AR70 TYPE SEMI-AUTO;

30 (XI) BUSHMASTER SEMI-AUTO RIFLE;

- 1 (XII) CALICO MODELS M-100 AND M-900;
- 2 (XIII) CIS SR 88 TYPE SEMI-AUTO;
- 3 (XIV) CLARIDGE HI TEC C-9 CARBINES;
- 4 (XV) COLT AR-15, CAR-15, AND ALL IMITATIONS EXCEPT COLT AR-15
5 SPORTER H-BAR RIFLE;
- 6 (XVI) DAEWOO MAX 1 AND MAX 2, AKA AR 100, 110C, K-1, AND K-2;
- 7 (XVII) DRAGUNOV CHINESE MADE SEMI-AUTO;
- 8 (XVIII) FAMAS SEMI-AUTO (.223 CALIBER);
- 9 (XIX) FEATHER AT-9 SEMI-AUTO;
- 10 (XX) FN LAR AND FN FAL ASSAULT RIFLE;
- 11 (XXI) FNC SEMI-AUTO TYPE CARBINE;
- 12 (XXII) F.I.E./FRANCHI LAW 12 AND SPAS 12 ASSAULT SHOTGUN;
- 13 (XXIII) STEYR-AUG-SA SEMI-AUTO;
- 14 (XXIV) GALIL MODELS AR AND ARM SEMI-AUTO;
- 15 (XXV) HECKLER AND KOCH HK-91 A3, HK-93 A2, HK-94 A2 AND A3;
- 16 (XXVI) HOLMES MODEL 88 SHOTGUN;
- 17 (XXVII) AVTOMAT KALASHNIKOV SEMIAUTOMATIC RIFLE IN ANY
18 FORMAT;
- 19 (XXVIII) MANCHESTER ARMS "COMMANDO" MK-45, MK-9;
- 20 (XXIX) MANDELL TAC-1 SEMI-AUTO CARBINE;
- 21 (XXX) MOSSBERG MODEL 500 BULLPUP ASSAULT SHOTGUN;
- 22 (XXXI) STERLING MARK 6;
- 23 (XXXII) P.A.W.S. CARBINE;
- 24 (XXXIII) RUGER MINI-14 FOLDING STOCK MODEL (.223 CALIBER);
- 25 (XXXIV) SIG 550/551 ASSAULT RIFLE (.223 CALIBER);
- 26 (XXXV) SKS WITH DETACHABLE MAGAZINE;
- 27 (XXXVI) AP-74 COMMANDO TYPE SEMI-AUTO;

1 (XXXVII) SPRINGFIELD ARMORY BM-59, SAR-48, G3, SAR-3, M-21
2 SNIPER RIFLE, M1A, EXCLUDING THE M1 GARAND;

3 (XXXVIII) STREET SWEEPER ASSAULT TYPE SHOTGUN;

4 (XXXIX) STRIKER 12 ASSAULT SHOTGUN IN ALL FORMATS;

5 (XL) UNIQUE F11 SEMI-AUTO TYPE;

6 (XLI) DAEWOO USAS 12 SEMI-AUTO SHOTGUN;

7 (XLII) UZI 9MM CARBINE OR RIFLE;

8 (XLIII) VALMET M-76 AND M-78 SEMI-AUTO;

9 (XLIV) WEAVER ARMS "NIGHTHAWK" SEMI-AUTO CARBINE; OR

10 (XLV) WILKINSON ARMS 9MM SEMI-AUTO "TERRY".

11 REVISOR'S NOTE: This subsection is new language derived without
12 substantive change from former Art. 27, § 441(d) and (r).

13 Defined terms: "Firearm" § 5-101

14 "Handgun" § 5-101

15 (Q) RENT.

16 "RENT" MEANS THE TEMPORARY TRANSFER FOR CONSIDERATION OF A
17 REGULATED FIREARM THAT IS TAKEN FROM THE PROPERTY OF THE OWNER OF THE
18 REGULATED FIREARM.

19 REVISOR'S NOTE: This subsection is new language derived without
20 substantive change from former Art. 27, § 441(t).

21 Defined term: "Regulated firearm" § 5-101

22 (R) SECONDARY SALE.

23 "SECONDARY SALE" MEANS A SALE OF A REGULATED FIREARM IN WHICH
24 NEITHER PARTY TO THE SALE:

25 (1) IS A LICENSEE;

26 (2) IS LICENSED BY THE FEDERAL GOVERNMENT AS A FIREARMS
27 DEALER;

28 (3) DEVOTES TIME, ATTENTION, AND LABOR TO DEALING IN FIREARMS
29 AS A REGULAR COURSE OF TRADE OR BUSINESS WITH THE PRINCIPAL OBJECTIVE OF
30 EARNING A PROFIT THROUGH THE REPEATED PURCHASE AND RESALE OF
31 FIREARMS; OR

1 (4) REPAIRS FIREARMS AS A REGULAR COURSE OF TRADE OR BUSINESS.

2 REVISOR'S NOTE: This subsection is new language derived without
3 substantive change from former Art. 27, § 441(h) and (u).

4 Former Art. 27, § 441(h), which defined "engaged in the business", is
5 revised as part of the definition of "secondary sale" for clarity in light of the
6 cross-reference in former Art. 27, § 441(u) to being "engaged in the
7 business as defined in this section". No substantive change is intended.

8 In the introductory language of this subsection, the reference to a party to
9 the "sale" is substituted for the former reference to a party to the
10 "transaction" to conform to the language used in this subsection.

11 Defined terms: "Firearm" § 5-101

12 "Licensee" § 5-101

13 "Regulated firearm" § 5-101

14 (S) SECRETARY.

15 "SECRETARY" MEANS THE SECRETARY OF STATE POLICE OR THE SECRETARY'S
16 DESIGNEE.

17 REVISOR'S NOTE: This subsection is new language derived without
18 substantive change from former Art. 27, § 441(v).

19 (T) STRAW PURCHASE.

20 "STRAW PURCHASE" MEANS A SALE OF A REGULATED FIREARM IN WHICH A
21 PERSON USES ANOTHER, KNOWN AS THE STRAW PURCHASER, TO:

22 (1) COMPLETE THE APPLICATION TO PURCHASE A REGULATED
23 FIREARM;

24 (2) TAKE INITIAL POSSESSION OF THE REGULATED FIREARM; AND

25 (3) SUBSEQUENTLY TRANSFER THE REGULATED FIREARM TO THE
26 PERSON.

27 REVISOR'S NOTE: This subsection is new language derived without
28 substantive change from former Art. 27, § 441(w).

29 The defined term "person" is substituted for the former references to an
30 "individual" to conform to the terminology of this subtitle.

31 The former reference to another "person" is deleted as implicit in the
32 reference to "another".

33 Defined terms: "Person" § 1-101

34 "Regulated firearm" § 5-101

1 REVISOR'S NOTE TO SECTION: Former Art. 27, § 441(o), which defined
2 "minor" to mean any person under the age of 18 years, is deleted in light of
3 Art. 1, § 24(b)(2) to the same effect.

4 Former Art. 27, § 441(q), which defined "person" to mean an individual,
5 partnership, association, or corporation, is deleted in light of § 1-101 of
6 this article to the same effect.

7 5-102. SCOPE OF SUBTITLE.

8 THIS SUBTITLE DOES NOT APPLY TO:

9 (1) THE TRANSFER OR POSSESSION OF A REGULATED FIREARM OR
10 DETACHABLE MAGAZINE:

11 (I) FOR TESTING OR EXPERIMENTATION AUTHORIZED BY THE
12 SECRETARY; AND

13 (II) BY A FEDERALLY LICENSED GUN MANUFACTURER, DEALER, OR
14 IMPORTER;

15 (2) THE SALE, TRANSFER, OR POSSESSION OF AN ANTIQUE FIREARM;

16 (3) AN UNSERVICEABLE FIREARM SOLD, TRANSFERRED, OR POSSESSED
17 AS A CURIO OR MUSEUM PIECE;

18 (4) LAW ENFORCEMENT PERSONNEL OF ANY UNIT OF THE FEDERAL
19 GOVERNMENT, MEMBERS OF THE ARMED FORCES OF THE UNITED STATES OR THE
20 NATIONAL GUARD, OR LAW ENFORCEMENT PERSONNEL OF THE STATE OR ANY
21 LOCAL AGENCY IN THE STATE, WHILE THOSE PERSONNEL OR MEMBERS ARE ACTING
22 WITHIN THE SCOPE OF THEIR OFFICIAL DUTIES;

23 (5) A REGULATED FIREARM MODIFIED TO RENDER IT PERMANENTLY
24 INOPERATIVE;

25 (6) PURCHASES, SALES, AND TRANSPORTATION TO OR BY A FEDERALLY
26 LICENSED GUN MANUFACTURER, DEALER, OR IMPORTER;

27 (7) AN ORGANIZATION THAT IS REQUIRED OR AUTHORIZED BY FEDERAL
28 LAW GOVERNING ITS SPECIFIC BUSINESS OR ACTIVITY TO MAINTAIN FIREARMS;

29 (8) THE RECEIPT OF A REGULATED FIREARM BY INHERITANCE, IF THE
30 HEIR FORWARDS TO THE SECRETARY A COMPLETED APPLICATION TO PURCHASE OR
31 TRANSFER THAT REGULATED FIREARM; OR

32 (9) A SIGNAL PISTOL OR OTHER VISUAL DISTRESS SIGNAL THAT THE
33 UNITED STATES COAST GUARD APPROVES AS A MARINE SAFETY DEVICE.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 27, §§ 441A, 447, and 447A.

1 %In the introductory language of this section, the reference to "[t]his
2 subtitle" is substituted for the former narrower reference to "[t]he
3 prohibitions of this subheading" to conform to the standard terminology
4 used in a scope of subtitle section and to avoid the erroneous implication
5 that elements of this subtitle, other than prohibitions, do apply to the
6 items listed in this section.

7 In items (1)(ii) and (6) of this section, the reference to a "federally licensed
8 gun manufacturer, dealer, or importer" is substituted for the former
9 references to a "licensed manufacturer, dealer, or importer" and to a
10 "licensed gun dealer, manufacturer, or importer" to state expressly that
11 which only was implied in the former law, *i.e.*, in these provisions, the
12 federal government is the licensing authority for gun manufacturers,
13 dealers, and importers.

14 In item (7) of this section, the former reference to federal "regulations" is
15 deleted as included in the reference to federal "law".

16 Defined terms: "Antique firearm" § 5-101

17 "Firearm" § 5-101

18 "Person" § 1-101

19 "Regulated firearm" § 5-101

20 "Secretary" § 5-101

21 5-103. EFFECT OF SUBTITLE.

22 THIS SUBTITLE DOES NOT AFFECT:

23 (1) A SALE OR TRANSFER FOR BONA FIDE RESALE IN THE ORDINARY
24 COURSE OF BUSINESS OF A LICENSEE; OR

25 (2) A SALE, RENTAL, TRANSFER, OR THE USE OF A REGULATED FIREARM
26 BY A PERSON AUTHORIZED OR REQUIRED TO DO SO AS PART OF THE PERSON'S
27 DUTIES AS A MEMBER OF:

28 (I) AN OFFICIAL POLICE FORCE OR OTHER LAW ENFORCEMENT
29 AGENCY;

30 (II) THE ARMED FORCES OF THE UNITED STATES, INCLUDING ALL
31 OFFICIAL RESERVE ORGANIZATIONS; OR

32 (III) THE MARYLAND NATIONAL GUARD.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 27, § 442(n).

35 In the introductory language of this section, the reference to this "subtitle"
36 is substituted for the former narrower reference to this "section" in light of
37 the placement of elements of former § 442 throughout this revised subtitle.
38 No substantive change is made by this substitution because no other

1 provision of this subtitle affects the items listed in this section.

2 In items (1) and (2) of this section, the references to "or" are substituted for
3 the former references to "and/or" for clarity.

4 Defined terms: "Licensee" § 5-101

5 "Person" § 1-101

6 "Regulated firearm" § 5-101

7 5-104. PREEMPTION BY STATE.

8 THIS SUBTITLE SUPERSEDES ANY RESTRICTION THAT A LOCAL JURISDICTION
9 IN THE STATE IMPOSES ON A SALE OF A REGULATED FIREARM, AND THE STATE
10 PREEMPTS THE RIGHT OF ANY LOCAL JURISDICTION TO REGULATE THE SALE OF A
11 REGULATED FIREARM.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 27, § 442(a).

14 The references to a "local" jurisdiction are substituted for the former
15 references to "subordinated" jurisdictions and to "such" jurisdictions to
16 conform to the terminology used throughout this title and in other revised
17 articles of the Code.

18 The reference to this "subtitle" is substituted for the former narrower
19 reference to this "section" to reflect that parts of former § 442 now appear
20 throughout this subtitle.

21 The former reference to restrictions imposed "by the laws, ordinances or
22 regulations" of local jurisdictions is deleted as surplusage.

23 Defined term: "Regulated firearm" § 5-101

24 5-105. REGULATIONS.

25 THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, §§ 448 and 442B(f).

28 The former reference to this "section" is deleted as included in the
29 reference to this "subtitle".

30 Defined term: "Secretary" § 5-101

31 5-106. DEALER'S LICENSE.

32 (A) REQUIRED.

1 A PERSON MUST LAWFULLY POSSESS A DEALER'S LICENSE ISSUED BY THE
2 SECRETARY BEFORE THE PERSON ENGAGES IN THE BUSINESS OF SELLING,
3 RENTING, OR TRANSFERRING REGULATED FIREARMS.

4 (B) ONE LICENSE FOR EACH PLACE OF BUSINESS.

5 ONE DEALER'S LICENSE IS REQUIRED FOR EACH PLACE OF BUSINESS WHERE
6 REGULATED FIREARMS ARE SOLD.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from the third sentence of former Art. 27, § 443(a) and, as it related
9 to the requirement that a person have a license before the person may
10 engage in the business of selling, renting, or transferring regulated
11 firearms, the first sentence.

12 Defined terms: "Dealer's license" § 5-101

13 "Person" § 1-101

14 "Regulated firearm" § 5-101

15 "Secretary" § 5-101

16 5-107. APPLICATION FOR DEALER'S LICENSE REQUIRED.

17 (A) IN GENERAL.

18 (1) AN APPLICANT FOR A DEALER'S LICENSE SHALL:

19 (I) SUBMIT TO THE SECRETARY AN APPLICATION ON THE FORM
20 THAT THE SECRETARY PROVIDES; AND

21 (II) PAY TO THE SECRETARY AN APPLICATION FEE OF \$50, PAYABLE
22 TO THE COMPTROLLER.

23 (2) A REFUND OR PRORATION OF THE APPLICATION FEE IS PROHIBITED.

24 (B) REQUIRED INFORMATION.

25 AN APPLICATION FOR A DEALER'S LICENSE SHALL CONTAIN:

26 (1) THE APPLICANT'S NAME, ADDRESS, SOCIAL SECURITY NUMBER,
27 PLACE AND DATE OF BIRTH, HEIGHT, WEIGHT, RACE, EYE AND HAIR COLOR, AND
28 SIGNATURE;

29 (2) A CLEAR AND RECOGNIZABLE PHOTOGRAPH OF THE APPLICANT,
30 UNLESS THE PHOTOGRAPH HAS BEEN SUBMITTED WITH A PRIOR YEAR'S
31 APPLICATION;

32 (3) A SET OF THE APPLICANT'S FINGERPRINTS, UNLESS THE
33 FINGERPRINTS HAVE BEEN SUBMITTED WITH A PRIOR YEAR'S APPLICATION; AND

34 (4) A STATEMENT BY THE APPLICANT THAT THE APPLICANT:

- 1 (I) IS A CITIZEN OF THE UNITED STATES;
- 2 (II) IS AT LEAST 21 YEARS OLD;
- 3 (III) HAS NEVER BEEN CONVICTED OF A DISQUALIFYING CRIME;
- 4 (IV) HAS NEVER BEEN CONVICTED OF A VIOLATION CLASSIFIED AS
5 A COMMON LAW CRIME AND RECEIVED A TERM OF IMPRISONMENT OF MORE THAN 2
6 YEARS;
- 7 (V) IS NOT A FUGITIVE FROM JUSTICE;
- 8 (VI) IS NOT A HABITUAL DRUNKARD;
- 9 (VII) IS NOT ADDICTED TO A CONTROLLED DANGEROUS SUBSTANCE
10 OR IS NOT A HABITUAL USER; AND
- 11 (VIII) HAS NEVER SPENT MORE THAN 30 CONSECUTIVE DAYS IN A
12 MEDICAL INSTITUTION FOR TREATMENT OF A MENTAL DISORDER, UNLESS A
13 PHYSICIAN'S CERTIFICATE ISSUED WITHIN 30 DAYS BEFORE THE DATE OF
14 APPLICATION IS ATTACHED TO THE APPLICATION, CERTIFYING THAT THE
15 APPLICANT IS CAPABLE OF POSSESSING A REGULATED FIREARM WITHOUT UNDUE
16 DANGER TO THE APPLICANT OR TO ANOTHER.

17 (C) REQUIRED WARNING.

18 EACH APPLICATION FOR A DEALER'S LICENSE SHALL CONTAIN THE
19 FOLLOWING STATEMENT: "ANY FALSE INFORMATION SUPPLIED OR STATEMENT
20 MADE IN THIS APPLICATION IS A CRIME WHICH MAY BE PUNISHED BY
21 IMPRISONMENT FOR A PERIOD OF NOT MORE THAN 3 YEARS, OR A FINE OF NOT
22 MORE THAN \$5,000 OR BOTH."

23 (D) APPLICATION OF CORPORATION.

24 IF AN APPLICANT IS A CORPORATION, A CORPORATE OFFICER WHO IS A
25 RESIDENT OF THE STATE SHALL COMPLETE AND EXECUTE THE APPLICATION.

26 REVISOR'S NOTE: Subsection (a)(1)(i) of this section is standard language
27 added to state expressly that which only was implied in the former law, *i.e.*,
28 applications may be made only on the form that the Secretary provides.

29 Subsection (a)(1)(ii) and (2) of this section is new language derived without
30 substantive change from former Art. 27, § 443(b)(2), except as it related to
31 the annual renewal fee of \$25, and the second clause of the first sentence of
32 (3).

33 Subsections (b) through (d) of this section are new language derived
34 without substantive change from former Art. 27, § 443(d) and (e).

35 In subsection (b)(4)(viii) of this section, the defined term "regulated
36 firearm" is substituted for the former reference to a "pistol or revolver" to

1 conform to the terminology used throughout this subtitle.

2 Also in subsection (b)(4)(viii) of this section, the former reference to mental
3 "disorders" is deleted as included in the reference to a "mental disorder".
4 *See* Art. 1, § 8, which provides that the singular always includes the plural
5 unless the construction would be unreasonable.

6 In subsection (c) of this section, the former reference to an "annual"
7 application is deleted as misleading. New applications are not required
8 each year. Under § 5-111 of this subtitle, the term of a license is 1 year.
9 After the term is expired, a license may be renewed.

10 The Public Safety Article Review Committee notes, for consideration by the
11 General Assembly, that in subsection (d) of this section the reference to a
12 "corporation" and the requirements for corporate applicants would not
13 include other legal persons such as limited partnerships and limited
14 liability companies. *See also* § 5-117(c) of this subtitle.

15 Defined terms: "Dealer's license" § 5-101

16 "Disqualifying crime" § 5-101

17 "Fugitive from justice" § 5-101

18 "Habitual drunkard" § 5-101

19 "Habitual user" § 5-101

20 "Person" § 1-101

21 "Regulated firearm" § 5-101

22 "Secretary" § 5-101

23 5-108. CRIMINAL HISTORY RECORDS CHECK.

24 (A) "CENTRAL REPOSITORY" DEFINED.

25 IN THIS SECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE
26 INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC
27 SAFETY AND CORRECTIONAL SERVICES.

28 (B) APPLICATION REQUIRED.

29 THE SECRETARY SHALL APPLY TO THE CENTRAL REPOSITORY FOR A STATE
30 AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FOR EACH APPLICANT FOR A
31 DEALER'S LICENSE.

32 (C) CONTENTS OF APPLICATION.

33 AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE
34 SECRETARY SHALL SUBMIT TO THE CENTRAL REPOSITORY:

35 (1) TWO COMPLETE SETS OF THE APPLICANT'S LEGIBLE FINGERPRINTS
36 TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND
37 THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

1 (2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL
2 PROCEDURE ARTICLE FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS; AND

3 (3) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL
4 BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

5 (D) INFORMATION FORWARDED TO APPLICANT AND STATE POLICE.

6 IN ACCORDANCE WITH §§ 10-201 THROUGH 10-234 OF THE CRIMINAL
7 PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE
8 APPLICANT AND THE SECRETARY A PRINTED STATEMENT OF THE APPLICANT'S
9 CRIMINAL HISTORY RECORD INFORMATION.

10 (E) RESTRICTIONS ON INFORMATION.

11 INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS
12 SECTION:

13 (1) IS CONFIDENTIAL AND MAY NOT BE DISSEMINATED; AND

14 (2) SHALL BE USED ONLY FOR THE LICENSING PURPOSE AUTHORIZED
15 BY THIS SECTION.

16 (F) SUBJECT MAY CONTEST CONTENTS.

17 THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SECTION
18 MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY THE
19 CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE CRIMINAL PROCEDURE
20 ARTICLE.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 27, § 443(c).

23 In subsections (b), the introductory language of (c), and (d) of this section,
24 the defined term "Secretary" is substituted for the former reference to the
25 "Department of State Police" to conform to the terminology used in other
26 provisions of this subtitle relating to dealer's licenses. *See, e.g.*, §§
27 5-106(a), 5-107(a)(1), 5-109, and 5-110 of this subtitle.

28 In subsection (b) of this section, the reference to each applicant "for a
29 dealer's license" is added for clarity.

30 Defined term: "Secretary" § 5-101

31 5-109. INVESTIGATION OF APPLICANT FOR DEALER'S LICENSE.

32 THE SECRETARY SHALL CONDUCT AN INVESTIGATION TO DETERMINE THE
33 TRUTH OR FALSITY OF THE INFORMATION SUPPLIED AND THE STATEMENTS MADE
34 IN AN APPLICATION FOR A DEALER'S LICENSE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from the first sentence of former Art. 27, § 443(f).

3 Defined terms: "Dealer's license" § 5-101

4 "Secretary" § 5-101

5 5-110. DISAPPROVAL OF DEALER'S LICENSE APPLICATION.

6 (A) GROUNDS.

7 THE SECRETARY SHALL DISAPPROVE AN APPLICATION FOR A DEALER'S
8 LICENSE IF:

9 (1) THE SECRETARY DETERMINES THAT THE APPLICANT SUPPLIED
10 FALSE INFORMATION OR MADE A FALSE STATEMENT;

11 (2) THE SECRETARY DETERMINES THAT THE APPLICATION IS NOT
12 PROPERLY COMPLETED; OR

13 (3) THE SECRETARY RECEIVES A WRITTEN NOTIFICATION FROM THE
14 APPLICANT'S LICENSED ATTENDING PHYSICIAN THAT THE APPLICANT SUFFERS
15 FROM A MENTAL DISORDER AND IS A DANGER TO THE APPLICANT OR TO ANOTHER.

16 (B) NOTICE.

17 IF THE SECRETARY DISAPPROVES AN APPLICATION FOR A DEALER'S LICENSE,
18 THE SECRETARY SHALL NOTIFY THE APPLICANT IN WRITING OF THE DISAPPROVAL.

19 (C) EFFECT OF DISAPPROVAL.

20 A PERSON WHOSE APPLICATION FOR A DEALER'S LICENSE HAS BEEN
21 DISAPPROVED MAY NOT ENGAGE IN THE BUSINESS OF SELLING, RENTING, OR
22 TRANSFERRING REGULATED FIREARMS, UNLESS THE DISAPPROVAL HAS BEEN
23 SUBSEQUENTLY WITHDRAWN BY THE SECRETARY OR OVERRULED BY A COURT IN
24 ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION.

25 (D) APPEAL.

26 (1) AN APPLICANT WHO IS AGGRIEVED BECAUSE THE SECRETARY HAS
27 DISAPPROVED THE APPLICATION FOR A DEALER'S LICENSE MAY APPEAL TO THE
28 CIRCUIT COURT OF THE COUNTY WHERE THE APPLICANT'S PLACE OF BUSINESS IS
29 TO BE LOCATED.

30 (2) THE APPEAL MUST BE FILED NOT LATER THAN 30 DAYS AFTER THE
31 SECRETARY MAILES NOTIFICATION OF DISAPPROVAL TO THE APPLICANT.

32 (3) IF THE APPEAL IS PROPERLY AND TIMELY FILED, THE COURT SHALL
33 AFFIRM OR REVERSE THE DISAPPROVAL OF THE SECRETARY DEPENDING ON
34 WHETHER THE COURT FINDS THAT:

1 (I) THE APPLICANT SUPPLIED FALSE INFORMATION OR MADE A
2 FALSE STATEMENT; OR

3 (II) THE APPLICATION WAS NOT PROPERLY COMPLETED.

4 (4) THE SECRETARY OR THE APPLICANT MAY APPEAL THE DECISION OF
5 THE CIRCUIT COURT TO THE COURT OF SPECIAL APPEALS.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 27, § 443(g), (h), and the second sentence of (f).

8 In subsections (b) and (d)(2) of this section, the reference to the "applicant"
9 is substituted for the former reference to the "prospective licensee" to
10 conform to the terminology used throughout this subtitle. Similarly, in
11 subsection (d)(1) of this section, the reference to an "applicant" is
12 substituted for the former reference to a "person".

13 In subsection (c) of this section, the references to "renting" and
14 "transferring" regulated firearms are added to reflect all the activities that
15 a person whose application for a dealer's license had been disapproved
16 would be prohibited from taking.

17 Also in subsection (c) of this section, the former reference to a disapproval
18 that is overruled by "the action" of a court is deleted as surplusage.

19 In subsection (d)(1) of this section, the former reference to the applicant's
20 "intended" place of business is deleted as implicit in the clause "where the
21 applicant's place of business is to be located".

22 Also in subsection (d)(1) of this section, the reference to the circuit court of
23 the county where the applicant's place of business is to be "located" is
24 substituted for the former reference to the circuit court of the county where
25 the applicant's place of business is to be "conducted" for clarity.

26 In subsection (d)(4) of this section, the former reference to a decision
27 reached by the circuit court "in accordance with this subsection" is deleted
28 as surplusage.

29 The Public Safety Article Review Committee notes, for consideration by the
30 General Assembly, that subsection (a) of this section requires the Secretary
31 to disapprove an application for a dealer's license if the Secretary receives
32 specified notification that the applicant suffers from a mental disorder.
33 Subsection (d) of this section, however, does not include a finding that the
34 applicant suffers from a mental disorder as a ground on the basis of which
35 the court may affirm or reverse the disapproval of an application by the
36 Secretary. The Committee notes this inconsistency for consideration by the
37 General Assembly.

38 Defined terms: "County" § 1-101

39 "Dealer's license" § 5-101

- 1 "Firearm" § 5-101
2 "Person" § 1-101
3 "Regulated firearm" § 5-101
4 "Secretary" § 5-101

5 5-111. TERM OF DEALER'S LICENSE.

6 (A) IN GENERAL.

7 UNLESS A DEALER'S LICENSE IS RENEWED FOR A 1-YEAR TERM AS PROVIDED
8 IN THIS SECTION, A DEALER'S LICENSE EXPIRES ON THE FIRST JUNE 30 AFTER ITS
9 EFFECTIVE DATE.

10 (B) APPLICATIONS FOR RENEWAL.

11 (1) BEFORE A DEALER'S LICENSE EXPIRES, THE LICENSEE
12 PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL 1-YEAR TERM, IF THE LICENSEE:

13 (I) IS OTHERWISE ENTITLED TO BE LICENSED;

14 (II) PAYS TO THE SECRETARY A RENEWAL FEE OF \$25, PAYABLE TO
15 THE COMPTROLLER; AND

16 (III) SUBMITS TO THE SECRETARY A RENEWAL APPLICATION ON
17 THE FORM THAT THE SECRETARY PROVIDES.

18 (2) A REFUND OR PRORATION OF THE RENEWAL FEE IS PROHIBITED.

19 REVISOR'S NOTE: Subsection (a) of this section is new language derived
20 without substantive change from former Art. 27, § 443(b)(1).

21 Subsection (b)(1)(i) of this section is new language added for clarity.

22 Subsection (b)(1)(ii) of this section is new language derived without
23 substantive change from former Art. 27, § 443(b)(2), as it related to the
24 annual renewal fee of \$25.

25 Subsection (b)(1)(iii) of this section is standard language added to state
26 expressly that which only was implied in the former law, *i.e.*, renewal
27 applications may be made only on the form that the Secretary provides.

28 Subsection (b)(2) of this section is new language derived without
29 substantive change from the second clause of the first sentence of former
30 Art. 27, § 443(b)(3).

31 In subsection (a) of this section, the reference to the expiration of a dealer's
32 license "on the first June 30 after its effective date" is substituted for the
33 former reference to "the 30th day of June of each year" to conform to the
34 practice of the Secretary and to similar provisions governing other
35 State-regulated businesses. *See, e.g.*, BR §§ 12-207 and 16-207.

1 % Also in subsection (a) of this section, the former reference to a dealer's
2 license "required by subsection (a) above" is deleted as surplusage.

3 Defined terms: "Dealer's license" § 5-101

4 "Licensee" § 5-101

5 "Secretary" § 5-101

6 5-112. NONTRANSFERABILITY OF DEALER'S LICENSE; NEW PLACE OF BUSINESS.

7 (A) NONTRANSFERABILITY OF DEALER'S LICENSE.

8 A DEALER'S LICENSE IS NOT TRANSFERABLE.

9 (B) NOTICE TO SECRETARY OF NEW PLACE OF BUSINESS.

10 BEFORE MOVING A PLACE OF BUSINESS, A LICENSEE SHALL INFORM THE
11 SECRETARY AND SURRENDER THE DEALER'S LICENSE.

12 (C) NEW DEALER'S LICENSE FOR NEW PLACE OF BUSINESS.

13 IF A CAUSE TO REVOKE THE DEALER'S LICENSE DOES NOT EXIST, THE
14 SECRETARY SHALL ISSUE A NEW DEALER'S LICENSE WITHOUT CHARGE COVERING
15 THE NEW PLACE OF BUSINESS FOR THE REST OF THE TERM OF THE SURRENDERED
16 DEALER'S LICENSE.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 27, § 443(b)(3), except for the second clause of the
19 first sentence.

20 In subsection (c) of this section, the reference to "the rest of the term" is
21 substituted for the former reference to "the duration of the unexpired
22 term" for brevity.

23 Defined terms: "Dealer's license" § 5-101

24 "Licensee" § 5-101

25 "Secretary" § 5-101

26 5-113. DISPLAY OF DEALER'S LICENSE.

27 (A) REQUIRED.

28 A LICENSEE SHALL DISPLAY CONSPICUOUSLY THE DEALER'S LICENSE AND ANY
29 OTHER LICENSE REQUIRED BY LAW AT THE LICENSEE'S PLACE OF BUSINESS.

30 (B) IDENTIFICATION OF LICENSEE AND LOCATION.

31 THE DEALER'S LICENSE SHALL IDENTIFY THE LICENSEE AND THE LOCATION
32 OF THE LICENSEE'S PLACE OF BUSINESS.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from the second sentence of former Art. 27, § 443(a) and, except as

1 it related to the requirement that a person lawfully possess a regulated
2 firearms dealer's license, the first sentence.

3 Defined terms: "Dealer's license" § 5-101

4 "Licensee" § 5-101

5 5-114. SUSPENSIONS AND REVOCATIONS -- GROUNDS; NOTICE; EFFECT.

6 (A) SUSPENSIONS.

7 THE SECRETARY SHALL SUSPEND A DEALER'S LICENSE IF THE LICENSEE:

8 (1) IS UNDER INDICTMENT FOR A CRIME OF VIOLENCE; OR

9 (2) IS ARRESTED FOR A VIOLATION OF THIS SUBTITLE THAT PROHIBITS
10 THE PURCHASE OR POSSESSION OF A REGULATED FIREARM.

11 (B) REVOCATIONS.

12 THE SECRETARY SHALL REVOKE A DEALER'S LICENSE IF:

13 (1) IT IS DISCOVERED THAT FALSE INFORMATION HAS BEEN SUPPLIED
14 OR FALSE STATEMENTS HAVE BEEN MADE IN AN APPLICATION REQUIRED BY THIS
15 SUBTITLE; OR

16 (2) THE LICENSEE:

17 (I) IS CONVICTED OF A DISQUALIFYING CRIME;

18 (II) IS CONVICTED OF A VIOLATION CLASSIFIED AS A COMMON LAW
19 CRIME AND RECEIVES A TERM OF IMPRISONMENT OF MORE THAN 2 YEARS;

20 (III) IS A FUGITIVE FROM JUSTICE;

21 (IV) IS A HABITUAL DRUNKARD;

22 (V) IS ADDICTED TO A CONTROLLED DANGEROUS SUBSTANCE OR
23 IS A HABITUAL USER;

24 (VI) HAS SPENT MORE THAN 30 CONSECUTIVE DAYS IN A MEDICAL
25 INSTITUTION FOR TREATMENT OF A MENTAL DISORDER, UNLESS THE LICENSEE
26 PRODUCES A PHYSICIAN'S CERTIFICATE, ISSUED AFTER THE LAST
27 INSTITUTIONALIZATION AND CERTIFYING THAT THE LICENSEE IS CAPABLE OF
28 POSSESSING A REGULATED FIREARM WITHOUT UNDUE DANGER TO THE LICENSEE
29 OR TO ANOTHER;

30 (VII) HAS KNOWINGLY OR WILLFULLY MANUFACTURED, OFFERED
31 TO SELL, OR SOLD A HANDGUN NOT ON THE HANDGUN ROSTER IN VIOLATION OF §
32 5-406 OF THIS TITLE; OR

1 (VIII) HAS KNOWINGLY OR WILLFULLY PARTICIPATED IN A STRAW
2 PURCHASE OF A REGULATED FIREARM.

3 (C) NOTICE.

4 IF THE SECRETARY SUSPENDS OR REVOKES A DEALER'S LICENSE, THE
5 SECRETARY SHALL NOTIFY THE LICENSEE IN WRITING OF THE SUSPENSION OR
6 REVOCATION.

7 (D) EFFECT OF SUSPENSION OR REVOCATION.

8 A PERSON WHOSE DEALER'S LICENSE IS SUSPENDED OR REVOKED MAY NOT
9 ENGAGE IN THE BUSINESS OF SELLING, RENTING, OR TRANSFERRING REGULATED
10 FIREARMS, UNLESS THE SUSPENSION OR REVOCATION HAS BEEN SUBSEQUENTLY
11 WITHDRAWN BY THE SECRETARY OR OVERRULED BY A COURT IN ACCORDANCE
12 WITH § 5-116 OF THIS SUBTITLE.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 27, § 443(i), (j), and (k).

15 In subsection (b)(1) of this section, the reference to this "subtitle" is
16 substituted for the former reference to this "section" to reflect the
17 reorganization of the former provisions on regulated firearms in this
18 subtitle. As to the requirement for an application, *see* § 5-107 of this
19 subtitle.

20 In subsection (b)(2)(vi) of this section, the former reference to mental
21 "disorders" is deleted as included in the reference to a "mental disorder".
22 *See* Art. 1, § 8, which provides that the singular always includes the plural
23 unless the construction would be unreasonable.

24 In subsection (d) of this section, the references to "renting" and
25 "transferring" regulated firearms are added to reflect all the activities that
26 a licensee whose license had been suspended or revoked would be
27 prohibited from taking.

28 Defined terms: "Crime of violence" § 5-101

29 "Dealer's license" § 5-101

30 "Disqualifying crime" § 5-101

31 "Fugitive from justice" § 5-101

32 "Habitual drunkard" § 5-101

33 "Habitual user" § 5-101

34 "Handgun" § 5-101

35 "Licensee" § 5-101

36 "Person" § 1-101

37 "Regulated firearm" § 5-101

38 "Secretary" § 5-101

39 "Straw purchase" § 5-101

1 5-115. SAME -- HEARINGS.

2 (A) RIGHT TO HEARING.

3 (1) A PERSON WHOSE DEALER'S LICENSE IS SUSPENDED OR REVOKED
4 AND WHO IS AGGRIEVED BY THE ACTION OF THE SECRETARY MAY REQUEST A
5 HEARING BY WRITING TO THE SECRETARY WITHIN 30 DAYS AFTER THE SECRETARY
6 FORWARDS NOTICE TO THE APPLICANT UNDER § 5-114(C) OF THIS SUBTITLE.

7 (2) THE SECRETARY SHALL GRANT THE HEARING WITHIN 15 DAYS
8 AFTER RECEIVING THE REQUEST.

9 (B) APPLICATION OF CONTESTED CASE PROVISIONS.

10 THE HEARING SHALL BE HELD IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF
11 THE STATE GOVERNMENT ARTICLE.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from the first sentence and, except as it related to judicial review,
14 the second sentence of former Art. 27, § 443(1).

15 In subsection (a)(1) of this section, the reference to a "person whose
16 dealer's license is suspended or revoked" is substituted for the former
17 reference to a "prospective" dealer to clarify the identity of the person who
18 may request a hearing under this subsection.

19 In subsection (b) of this section, the reference to "Title 10, Subtitle 2 of the
20 State Government Article" is substituted for the former reference to "the
21 provisions of the Administrative Procedure Act" to state explicitly the law
22 governing review of the Secretary's decisions.

23 Defined terms: "Dealer's license" § 5-101

24 "Person" § 1-101

25 "Secretary" § 5-101

26 5-116. JUDICIAL REVIEW.

27 (A) STAY OF REVOCATION.

28 A REVOCATION MAY NOT TAKE EFFECT WHILE AN APPEAL IS PENDING.

29 (B) APPLICATION OF CONTESTED CASE PROVISIONS.

30 ANY SUBSEQUENT JUDICIAL REVIEW SHALL BE HELD IN ACCORDANCE WITH
31 TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from the third sentence and, as it related to judicial review, the
34 second sentence of former Art. 27, § 443(1).

35 In subsection (b) of this section, the reference to "Title 10, Subtitle 2 of the

1 State Government Article" is substituted for the former reference to "the
2 provisions of the Administrative Procedure Act" to state explicitly the law
3 governing judicial review.

4 5-117. APPLICATION FOR REGULATED FIREARM REQUIRED.

5 A PERSON MUST SUBMIT A FIREARM APPLICATION IN ACCORDANCE WITH THIS
6 SUBTITLE BEFORE THE PERSON PURCHASES, RENTS, OR TRANSFERS A REGULATED
7 FIREARM.

8 REVISOR'S NOTE: This section is new language added to state expressly that
9 which only was implied in the former law, *i.e.*, a person must submit an
10 application to purchase, rent, or transfer a regulated firearm. It is based
11 on the references to an application to purchase, rent, or transfer a
12 regulated firearm in former Art. 27, § 442.

13 Defined terms: "Firearm application" § 5-101

14 "Person" § 1-101

15 "Regulated firearm" § 5-101

16 5-118. FIREARM APPLICATION.

17 (A) IN GENERAL.

18 A FIREARM APPLICANT SHALL:

19 (1) SUBMIT TO A LICENSEE OR DESIGNATED LAW ENFORCEMENT
20 AGENCY A FIREARM APPLICATION ON THE FORM THAT THE SECRETARY PROVIDES;
21 AND

22 (2) PAY TO THE LICENSEE OR DESIGNATED LAW ENFORCEMENT
23 AGENCY AN APPLICATION FEE OF \$10.

24 (B) REQUIRED INFORMATION.

25 A FIREARM APPLICATION SHALL CONTAIN:

26 (1) THE FIREARM APPLICANT'S NAME, ADDRESS, SOCIAL SECURITY
27 NUMBER, PLACE AND DATE OF BIRTH, HEIGHT, WEIGHT, RACE, EYE AND HAIR COLOR,
28 SIGNATURE, DRIVER'S OR PHOTOGRAPHIC IDENTIFICATION SOUNDINDEX NUMBER,
29 OCCUPATION, AND REGULATED FIREARM INFORMATION FOR EACH REGULATED
30 FIREARM TO BE PURCHASED, RENTED, OR TRANSFERRED;

31 (2) THE DATE AND TIME THAT THE FIREARM APPLICANT DELIVERED
32 THE COMPLETED FIREARM APPLICATION TO THE PROSPECTIVE SELLER OR
33 TRANSFEROR; AND

34 (3) A STATEMENT BY THE FIREARM APPLICANT UNDER THE PENALTY
35 OF PERJURY THAT THE FIREARM APPLICANT:

36 (I) IS AT LEAST 21 YEARS OLD;

1 (II) HAS NEVER BEEN CONVICTED OF A DISQUALIFYING CRIME;

2 (III) HAS NEVER BEEN CONVICTED OF A VIOLATION CLASSIFIED AS
3 A COMMON LAW CRIME AND RECEIVED A TERM OF IMPRISONMENT OF MORE THAN 2
4 YEARS;

5 (IV) IS NOT A FUGITIVE FROM JUSTICE;

6 (V) IS NOT A HABITUAL DRUNKARD;

7 (VI) IS NOT ADDICTED TO A CONTROLLED DANGEROUS SUBSTANCE
8 OR IS NOT A HABITUAL USER;

9 (VII) HAS NEVER SPENT MORE THAN 30 CONSECUTIVE DAYS IN A
10 MEDICAL INSTITUTION FOR TREATMENT OF A MENTAL DISORDER, UNLESS A
11 PHYSICIAN'S CERTIFICATE ISSUED WITHIN 30 DAYS BEFORE THE DATE OF
12 APPLICATION IS ATTACHED TO THE APPLICATION, CERTIFYING THAT THE FIREARM
13 APPLICANT IS CAPABLE OF POSSESSING A REGULATED FIREARM WITHOUT UNDUE
14 DANGER TO THE FIREARM APPLICANT OR TO ANOTHER;

15 (VIII) IS NOT A RESPONDENT AGAINST WHOM A CURRENT NON EX
16 PARTE CIVIL PROTECTIVE ORDER HAS BEEN ENTERED UNDER § 4-506 OF THE
17 FAMILY LAW ARTICLE;

18 (IX) IF UNDER THE AGE OF 30 YEARS AT THE TIME OF APPLICATION,
19 HAS NOT BEEN ADJUDICATED DELINQUENT BY A JUVENILE COURT FOR AN ACT
20 THAT WOULD BE A DISQUALIFYING CRIME IF COMMITTED BY AN ADULT; AND

21 (X) SUBJECT TO § 5-119 OF THIS SUBTITLE, HAS COMPLETED A
22 CERTIFIED FIREARMS SAFETY TRAINING COURSE THAT THE POLICE TRAINING
23 COMMISSION CONDUCTS WITHOUT CHARGE OR THAT MEETS THE STANDARDS THAT
24 THE POLICE TRAINING COMMISSION ESTABLISHES UNDER § 3-207 OF THIS ARTICLE.

25 (C) REQUIRED WARNING.

26 EACH FIREARM APPLICATION SHALL CONTAIN THE FOLLOWING STATEMENT:
27 "ANY FALSE INFORMATION SUPPLIED OR STATEMENT MADE IN THIS APPLICATION IS
28 A CRIME WHICH MAY BE PUNISHED BY IMPRISONMENT FOR A PERIOD OF NOT MORE
29 THAN 3 YEARS, OR A FINE OF NOT MORE THAN \$5,000, OR BOTH."

30 (D) FIREARM APPLICATION OF CORPORATION.

31 IF THE FIREARM APPLICANT IS A CORPORATION, A CORPORATE OFFICER WHO
32 IS A RESIDENT OF THE STATE SHALL COMPLETE AND EXECUTE THE FIREARM
33 APPLICATION.

34 REVISOR'S NOTE: Subsection (a)(1) of this section is standard language added
35 to state expressly that which only was implied in the former law, *i.e.*,
36 applications may be made only on the form that the Secretary provides.

1 %Subsections (a)(2) through (d) of this section are new language derived
2 without substantive change from former Art. 27, § 442(g), (h), and (f)(1).

3 In subsection (a)(2) of this section, the former reference that a firearm
4 applicant pay a fee of \$10 "with the application" is deleted in light of the
5 reference to an "application fee".

6 In subsection (b)(3)(vii) of this section, the former reference to mental
7 "disorders" is deleted as included in the reference to a "mental disorder".
8 *See* Art. 1, § 8 which provides that the singular always includes the plural
9 unless the construction would be unreasonable.

10 In subsection (b)(3)(ix) of this section, the reference to an adjudication for
11 an "act" that would be a disqualifying crime "if committed by an adult" is
12 added for consistency with § 5-306 of this title.

13 Also in subsection (b)(3)(ix) of this section, the reference to "if" under the
14 age of 30 years is substituted for the former apparently erroneous
15 reference to "is" [under the age of] 30 years to avoid the mistaken
16 interpretation requiring an applicant to be under the age of 30 years to be
17 eligible to purchase a regulated firearm.

18 In subsection (b)(3)(x) of this section, the former reference to "an
19 application made on or after January 1, 2002" is deleted as obsolete.

20 Defined terms: "Designated law enforcement agency" § 5-101

21 "Disqualifying crime" § 5-101

22 "Firearm" § 5-101

23 "Firearm applicant" § 5-101

24 "Firearm application" § 5-101

25 "Fugitive from justice" § 5-101

26 "Habitual drunkard" § 5-101

27 "Habitual user" § 5-101

28 "Licensee" § 5-101

29 "Regulated firearm" § 5-101

30 "Secretary" § 5-101

31 5-119. EXEMPTION FROM CERTIFIED FIREARMS TRAINING COURSE REQUIREMENT.

32 A FIREARM APPLICANT IS NOT REQUIRED TO COMPLETE A CERTIFIED
33 FIREARMS TRAINING COURSE REQUIRED UNDER §§ 5-118 AND 5-134 OF THIS
34 SUBTITLE IF THE FIREARM APPLICANT:

35 (1) HAS ALREADY COMPLETED A CERTIFIED FIREARMS TRAINING
36 COURSE REQUIRED UNDER §§ 5-118 AND 5-134 OF THIS SUBTITLE;

37 (2) IS A LAW ENFORCEMENT OFFICER OF THE STATE OR ANY LOCAL
38 LAW ENFORCEMENT AGENCY IN THE STATE;

1 (3) IS A MEMBER, RETIRED MEMBER, OR HONORABLY DISCHARGED
2 MEMBER OF THE ARMED FORCES OF THE UNITED STATES OR THE NATIONAL GUARD;

3 (4) IS A MEMBER OF AN ORGANIZATION THAT IS REQUIRED BY FEDERAL
4 LAW GOVERNING ITS SPECIFIC BUSINESS OR ACTIVITY TO MAINTAIN HANDGUNS
5 AND APPLICABLE AMMUNITION; OR

6 (5) HOLDS A PERMIT TO CARRY A HANDGUN UNDER SUBTITLE 3 OF THIS
7 TITLE.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 27, § 442(h-1).

10 In the introductory language of this section, the defined term "firearm
11 applicant" is substituted for the overly broad defined term "person" for
12 accuracy.

13 In item (4) of this section, the former reference to federal "regulations" is
14 deleted as implicit in the reference to federal "law".

15 In item (5) of this section, the reference to "Subtitle 3 of this title" is
16 substituted for the former reference to "§ 36E of this article" to reflect the
17 reorganization of the former provisions on handgun permits. In this
18 revision, the reference is broader because Subtitle 3 of this title includes
19 other provisions not in former § 36E. No substantive change is intended by
20 use of this broader reference to "Subtitle 3 of this title".

21 The Public Safety Article Review Committee notes, for consideration by the
22 General Assembly, that in the introductory language of this section and in
23 item (1) of this section, the cross-references to a certified firearms training
24 course required under "§ 5-134" of this subtitle are misleading because,
25 although the course requirement is mentioned in § 5-134, the section does
26 not require a firearm applicant to complete the course.

27 Defined terms: "Firearm" § 5-101

28 "Firearm applicant" § 5-101

29 "Handgun" § 5-101

30 5-120. COPIES OF FIREARM APPLICATION; FEES.

31 (A) COPY TO SECRETARY.

32 (1) ON RECEIPT OF A FIREARM APPLICATION, A LICENSEE OR
33 DESIGNATED LAW ENFORCEMENT AGENCY SHALL PROMPTLY FORWARD ONE COPY
34 OF IT TO THE SECRETARY BY CERTIFIED MAIL OR FACSIMILE MACHINE.

35 (2) THE COPY OF THE FIREARM APPLICATION FORWARDED TO THE
36 SECRETARY SHALL CONTAIN THE NAME, ADDRESS, AND SIGNATURE OF THE
37 PROSPECTIVE SELLER, LESSOR, OR TRANSFEROR.

1 (B) OTHER COPIES.

2 (1) THE PROSPECTIVE SELLER, LESSOR, OR TRANSFEROR SHALL KEEP
3 ONE COPY OF THE FIREARM APPLICATION FOR NOT LESS THAN 3 YEARS.

4 (2) THE FIREARM APPLICANT IS ENTITLED TO THE REMAINING COPY OF
5 THE FIREARM APPLICATION.

6 (C) FEES.

7 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
8 LICENSEE OR DESIGNATED LAW ENFORCEMENT AGENCY SHALL FORWARD THE \$10
9 APPLICATION FEE WITH THE FIREARM APPLICATION TO THE SECRETARY.

10 (2) A LICENSEE OR DESIGNATED LAW ENFORCEMENT AGENCY THAT
11 USES A FACSIMILE MACHINE TO FORWARD THE FIREARM APPLICATION TO THE
12 SECRETARY SHALL:

13 (I) BE BILLED \$10 FOR EACH FIREARM APPLICATION FORWARDED
14 TO THE SECRETARY DURING THE MONTH; AND

15 (II) PAY THE TOTAL APPLICATION FEE BY THE FIFTEENTH DAY OF
16 THE FOLLOWING MONTH.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 27, § 442(e) and (f)(2) and (3).

19 In subsection (a)(1) of this section, the former reference to a firearm
20 application "completed in accordance with subsection (h) below" is deleted
21 as surplusage.

22 In subsection (b)(1) of this section, the former reference to "a period of" not
23 less than 3 years is deleted for brevity.

24 In subsection (c)(1) of this section, the phrase "[e]xcept as provided in
25 paragraph (2) of this subsection," is added for clarity.

26 Defined terms: "Designated law enforcement agency" § 5-101

27 "Firearm applicant" § 5-101

28 "Firearm application" § 5-101

29 "Licensee" § 5-101

30 "Secretary" § 5-101

31 5-121. INVESTIGATION OF FIREARM APPLICANT.

32 (A) SECRETARY TO CONDUCT INVESTIGATION.

33 ON RECEIPT OF A FIREARM APPLICATION, THE SECRETARY SHALL CONDUCT AN
34 INVESTIGATION PROMPTLY TO DETERMINE THE TRUTH OR FALSITY OF THE
35 INFORMATION SUPPLIED AND STATEMENTS MADE IN THE FIREARM APPLICATION.

1 (B) REQUEST FOR ASSISTANCE.

2 IN CONDUCTING AN INVESTIGATION UNDER THIS SUBSECTION, THE
3 SECRETARY MAY REQUEST THE ASSISTANCE OF THE POLICE COMMISSIONER OF
4 BALTIMORE CITY, THE CHIEF OF POLICE IN ANY COUNTY MAINTAINING A POLICE
5 FORCE, OR THE SHERIFF IN A COUNTY NOT MAINTAINING A POLICE FORCE.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from the first sentence of former Art. 27, § 442(i).

8 Defined terms: "County" § 1-101

9 "Firearm application" § 5-101

10 "Secretary" § 5-101

11 5-122. DISAPPROVAL OF FIREARM APPLICATION.

12 (A) GROUNDS.

13 THE SECRETARY SHALL DISAPPROVE A FIREARM APPLICATION IF:

14 (1) THE SECRETARY DETERMINES THAT THE FIREARM APPLICANT
15 SUPPLIED FALSE INFORMATION OR MADE A FALSE STATEMENT;

16 (2) THE SECRETARY DETERMINES THAT THE FIREARM APPLICATION IS
17 NOT PROPERLY COMPLETED; OR

18 (3) THE SECRETARY RECEIVES WRITTEN NOTIFICATION FROM THE
19 FIREARM APPLICANT'S LICENSED ATTENDING PHYSICIAN THAT THE FIREARM
20 APPLICANT SUFFERS FROM A MENTAL DISORDER AND IS A DANGER TO THE FIREARM
21 APPLICANT OR TO ANOTHER.

22 (B) NOTICE.

23 (1) IF THE SECRETARY DISAPPROVES A FIREARM APPLICATION, THE
24 SECRETARY SHALL NOTIFY THE PROSPECTIVE SELLER, LESSOR, OR TRANSFEROR IN
25 WRITING OF THE DISAPPROVAL WITHIN 7 DAYS AFTER THE DATE THAT THE
26 EXECUTED FIREARM APPLICATION IS FORWARDED TO THE SECRETARY BY
27 CERTIFIED MAIL OR FACSIMILE MACHINE.

28 (2) AFTER NOTIFYING THE PROSPECTIVE SELLER, LESSOR, OR
29 TRANSFEROR UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE SECRETARY SHALL
30 NOTIFY THE PROSPECTIVE PURCHASER, LESSEE, OR TRANSFEREE IN WRITING OF
31 THE DISAPPROVAL.

32 (3) THE DATE WHEN THE PROSPECTIVE SELLER, LESSOR, OR
33 TRANSFEROR FORWARDS THE EXECUTED FIREARM APPLICATION TO THE
34 SECRETARY BY CERTIFIED MAIL OR BY FACSIMILE MACHINE IS THE FIRST DAY OF
35 THE 7-DAY PERIOD ALLOWED FOR NOTICE OF DISAPPROVAL TO THE PROSPECTIVE
36 SELLER, LESSOR, OR TRANSFEROR.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from the second through fourth sentences of former Art. 27, §
3 442(i).

4 In the introductory language of subsection (a) of this section, the
5 requirement that "[t]he Secretary shall disapprove a firearm application"
6 is added to state expressly that which only was implied in the former law,
7 *i.e.*, the Secretary is required to deny an application for the reasons stated
8 in law. Similarly, in subsection (a)(1) of this section, the reference to "the
9 Secretary" determining grounds exist for disapproval is added to state
10 expressly that the Secretary is required to determine whether grounds
11 exist for disapproval.

12 In subsection (a)(3) of this section, the former reference to mental
13 "disorders" is deleted as included in the reference to a "mental disorder".
14 *See* Art. 1, § 8 which provides that the singular always includes the plural
15 unless the construction would be unreasonable.

16 The fifth sentence of former Art. 27, § 442(i), which stated "[i]f the seventh
17 day of the seven-day period allowed for the notice of disapproval shall fall
18 on a Sunday or legal holiday, the computation period shall be extended to
19 the first day next following, which is neither a Sunday nor a legal holiday",
20 is deleted in light of Art. 1, § 36, which states that if the last day of a period
21 of time is a Sunday or a legal holiday, the time period runs until the next
22 day that is not a Sunday or legal holiday.

23 Defined terms: "Firearm applicant" § 5-101

24 "Firearm application" § 5-101

25 "Secretary" § 5-101

26 5-123. TIME FOR LICENSEE TO COMPLETE TRANSACTIONS.

27 (A) SEVEN-DAY WAITING PERIOD.

28 A LICENSEE MAY NOT SELL, RENT, OR TRANSFER A REGULATED FIREARM
29 UNTIL AFTER 7 DAYS FOLLOWING THE TIME A FIREARM APPLICATION IS EXECUTED
30 BY THE FIREARM APPLICANT, IN TRIPLICATE, AND THE ORIGINAL IS FORWARDED BY
31 THE PROSPECTIVE SELLER OR TRANSFEROR TO THE SECRETARY.

32 (B) COMPLETION REQUIRED IN 90 DAYS.

33 A LICENSEE SHALL COMPLETE THE SALE, RENTAL, OR TRANSFER OF A
34 REGULATED FIREARM WITHIN 90 DAYS AFTER THE FIREARM APPLICATION WAS
35 STAMPED BY THE SECRETARY AS NOT BEING DISAPPROVED.

36 (C) INCOMPLETE TRANSACTIONS.

37 (1) IF THE SALE, RENTAL, OR TRANSFER OF A REGULATED FIREARM IS
38 NOT COMPLETED WITHIN 90 DAYS AFTER THE FIREARM APPLICATION WAS STAMPED

1 BY THE SECRETARY AS NOT BEING DISAPPROVED, A LICENSEE SHALL RETURN THE
2 FIREARM APPLICATION TO THE SECRETARY WITHIN 7 DAYS.

3 (2) THE SECRETARY SHALL VOID A FIREARM APPLICATION RETURNED
4 UNDER PARAGRAPH (1) OF THIS SUBSECTION AS AN INCOMPLETE SALE, RENTAL, OR
5 TRANSFER.

6 (D) NOTIFICATION OF COMPLETED TRANSACTION.

7 (1) (I) A LICENSEE WHO SELLS, RENTS, OR TRANSFERS A REGULATED
8 FIREARM IN COMPLIANCE WITH THIS SUBTITLE SHALL FORWARD A COPY OF THE
9 WRITTEN NOTIFICATION OF THE COMPLETED TRANSACTION TO THE SECRETARY
10 WITHIN 7 DAYS AFTER DELIVERY OF THE REGULATED FIREARM.

11 (II) THE NOTIFICATION SHALL CONTAIN AN IDENTIFYING
12 DESCRIPTION OF THE REGULATED FIREARM, INCLUDING ITS CALIBER, MAKE,
13 MODEL, ANY MANUFACTURER'S SERIAL NUMBER, AND ANY OTHER SPECIAL OR
14 PECULIAR CHARACTERISTIC OR MARKING BY WHICH THE REGULATED FIREARM MAY
15 BE IDENTIFIED.

16 (2) THE SECRETARY SHALL MAINTAIN A PERMANENT RECORD OF ALL
17 NOTIFICATIONS RECEIVED OF COMPLETED SALES, RENTALS, AND TRANSFERS OF
18 REGULATED FIREARMS IN THE STATE.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 27, § 442(c) and, except as they related to persons,
21 (l) and (m).

22 In subsection (a) of this section, the defined term "firearm application" is
23 substituted for the former reference to an "application to purchase or
24 transfer" for brevity.

25 Also in subsection (a) of this section, the reference to a "firearm applicant"
26 is substituted for the former reference to a "prospective purchaser or
27 transferee" for brevity.

28 Also in subsection (a) of this section, the former reference to the original
29 "copy" is deleted as surplusage.

30 In subsections (b) and (c)(1) of this section, the former references to 90 days
31 after "the date" the firearm application was stamped are deleted as
32 surplusage.

33 In subsection (b) of this section, the former reference to an application "of
34 the prospective purchaser, lessee, or transferee" is deleted as implicit in
35 the defined term "firearm application".

36 In subsection (c)(2) of this section, the requirement that "[t]he Secretary
37 shall void" is substituted for the former phrase "shall be voided" to state
38 expressly that which only was implied in the former law, *i.e.*, that the

1 Secretary is required to void any returned firearm application.

2 In subsection (d)(1)(ii) of this section, the former reference to a regulated
3 firearm "sold, rented, or transferred" is deleted as implicit in the reference
4 to a "transaction" under subsection (d)(1)(i) of this section.

5 In subsection (d)(2) of this section, the requirement that the Secretary
6 maintain a record of all "notifications received" is substituted for the
7 former reference to "such completed" transactions for clarity.

8 Defined terms: "Firearm applicant" § 5-101

9 "Firearm application" § 5-101

10 "Licensee" § 5-101

11 "Regulated firearm" § 5-101

12 "Secretary" § 5-101

13 5-124. SECONDARY TRANSACTIONS.

14 (A) SEVEN-DAY WAITING PERIOD.

15 (1) A PERSON WHO IS NOT A LICENSEE MAY NOT SELL, RENT, TRANSFER,
16 OR PURCHASE A REGULATED FIREARM UNTIL AFTER 7 DAYS FOLLOWING THE TIME A
17 FIREARM APPLICATION IS EXECUTED BY THE FIREARM APPLICANT, IN TRIPPLICATE,
18 AND THE ORIGINAL IS FORWARDED BY A LICENSEE TO THE SECRETARY.

19 (2) AS AN ALTERNATIVE TO COMPLETING A SECONDARY SALE OF A
20 REGULATED FIREARM THROUGH A LICENSEE, A PROSPECTIVE SELLER, LESSOR, OR
21 TRANSFEROR AND A PROSPECTIVE PURCHASER, LESSEE, OR TRANSFEREE MAY
22 COMPLETE THE TRANSACTION THROUGH A DESIGNATED LAW ENFORCEMENT
23 AGENCY.

24 (B) PROCESSING FEE.

25 A FIREARM APPLICANT FOR A SECONDARY SALE OF A REGULATED FIREARM
26 THROUGH A LICENSEE SHALL PAY TO THE LICENSEE A PROCESSING FEE NOT
27 EXCEEDING \$20.

28 (C) COMPLETION REQUIRED IN 90 DAYS.

29 A PERSON SHALL COMPLETE THE SALE, RENTAL, OR TRANSFER OF A
30 REGULATED FIREARM WITHIN 90 DAYS AFTER THE FIREARM APPLICATION WAS
31 STAMPED BY THE SECRETARY AS NOT BEING DISAPPROVED.

32 (D) INCOMPLETE TRANSACTIONS.

33 (1) IF THE SALE, RENTAL, OR TRANSFER OF A REGULATED FIREARM IS
34 NOT COMPLETED WITHIN 90 DAYS AFTER THE FIREARM APPLICATION WAS STAMPED
35 BY THE SECRETARY AS NOT BEING DISAPPROVED, A PERSON SHALL RETURN THE
36 FIREARM APPLICATION TO THE SECRETARY WITHIN 7 DAYS.

1 (2) THE SECRETARY SHALL VOID A FIREARM APPLICATION RETURNED
2 UNDER PARAGRAPH (1) OF THIS SUBSECTION AS AN INCOMPLETE SALE, RENTAL, OR
3 TRANSFER.

4 (E) NOTIFICATION OF COMPLETED TRANSACTION.

5 (1) (I) A PERSON WHO SELLS, RENTS, OR TRANSFERS A REGULATED
6 FIREARM IN COMPLIANCE WITH THIS SUBTITLE SHALL FORWARD A COPY OF THE
7 WRITTEN NOTIFICATION OF THE COMPLETED TRANSACTION TO THE SECRETARY
8 WITHIN 7 DAYS AFTER DELIVERY OF THE REGULATED FIREARM.

9 (II) THE NOTIFICATION SHALL CONTAIN AN IDENTIFYING
10 DESCRIPTION OF THE REGULATED FIREARM, INCLUDING ITS CALIBER, MAKE,
11 MODEL, ANY MANUFACTURER'S SERIAL NUMBER, AND ANY OTHER SPECIAL OR
12 PECULIAR CHARACTERISTIC OR MARKING BY WHICH THE REGULATED FIREARM MAY
13 BE IDENTIFIED.

14 (2) THE SECRETARY SHALL MAINTAIN A PERMANENT RECORD OF ALL
15 NOTIFICATIONS RECEIVED OF COMPLETED SALES, RENTALS, AND TRANSFERS OF
16 REGULATED FIREARMS IN THE STATE.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 27, § 442(d) and, as they related to persons, (l) and
19 (m).

20 In subsection (a)(1) of this section, the reference to a "lessor" is added for
21 consistency throughout this subtitle. Similarly, the reference to a "lessee"
22 is added.

23 Also in subsection (a)(1) of this section, the former reference to the original
24 "copy" is deleted as surplusage.

25 In subsection (b) of this section, the defined term "firearm applicant" is
26 substituted for the former reference to a "person who makes an application
27 to purchase, rent, or transfer" for brevity and consistency.

28 Also in subsection (b) of this section, the phrase "through a licensee" is
29 added to state expressly that which only was implied in the former law, *i.e.*,
30 that the fee is only paid to a licensee when the licensee processes the
31 firearm application.

32 In subsections (c) and (d)(1) of this section, the former references to 90 days
33 after "the date" the firearm application was stamped are deleted as
34 surplusage.

35 In subsection (c) of this section, the former reference to an application "of
36 the prospective purchaser, lessee, or transferee" is deleted as implicit in
37 the defined term "firearm application".

38 In subsection (d)(2) of this section, the requirement that "[t]he Secretary

1 shall void" is substituted for the former phrase "shall be voided" to state
 2 expressly that which only was implied in the former law, *i.e.*, that the
 3 Secretary is required to void any returned firearm application.

4 In subsection (e)(1)(ii) of this section, the former reference to a regulated
 5 firearm "sold, rented, or transferred" is deleted as implicit in the reference
 6 to a "transaction" under subsection (e)(1)(i) of this section.

7 In subsection (e)(2) of this section, the requirement that the Secretary
 8 maintain a record of all "notifications received" is substituted for the
 9 former reference to "such completed" transactions for clarity.

10 Defined terms: "Designated law enforcement agency" § 5-101

11 "Firearm applicant" § 5-101

12 "Firearm application" § 5-101

13 "Licensee" § 5-101

14 "Person" § 1-101

15 "Regulated firearm" § 5-101

16 "Secretary" § 5-101

17 5-125. APPROVED, ON HOLD, AND DISAPPROVED APPLICATIONS.

18 (A) APPROVED APPLICATIONS.

19 AN APPROVED FIREARM APPLICATION IS VALID ONLY FOR THE PURCHASE,
 20 RENTAL, OR TRANSFER OF THE REGULATED FIREARM LISTED IN THE FIREARM
 21 APPLICATION.

22 (B) ON HOLD AND DISAPPROVED APPLICATIONS.

23 A LICENSEE OR OTHER PERSON MAY NOT SELL, RENT, OR TRANSFER A
 24 REGULATED FIREARM TO A FIREARM APPLICANT WHOSE FIREARM APPLICATION IS
 25 PLACED ON HOLD BECAUSE OF AN OPEN DISPOSITION OF CRIMINAL PROCEEDINGS
 26 AGAINST THE FIREARM APPLICANT OR DISAPPROVED, UNLESS THE HOLD OR
 27 DISAPPROVAL HAS BEEN SUBSEQUENTLY WITHDRAWN BY THE SECRETARY OR
 28 OVERRULED BY A COURT IN ACCORDANCE WITH § 5-127 OF THIS SUBTITLE.

29 REVISOR'S NOTE: This section is new language derived without substantive
 30 change from former Art. 27, § 442(j).

31 In subsection (b) of this section, the reference to the "hold" or disapproval
 32 being withdrawn or overruled is added for clarity and consistency.

33 Defined terms: "Firearm applicant" § 5-101

34 "Firearm application" § 5-101

35 "Licensee" § 5-101

36 "Person" § 1-101

37 "Regulated firearm" § 5-101

38 "Secretary" § 5-101

1 5-126. HEARINGS.

2 (A) RIGHT TO HEARING.

3 (1) A FIREARM APPLICANT WHO IS AGGRIEVED BY THE ACTION OF THE
4 SECRETARY MAY REQUEST A HEARING BY WRITING TO THE SECRETARY WITHIN 30
5 DAYS AFTER THE SECRETARY FORWARDS NOTICE TO THE FIREARM APPLICANT
6 UNDER § 5-122 OF THIS SUBTITLE.

7 (2) THE SECRETARY SHALL GRANT THE HEARING WITHIN 15 DAYS
8 AFTER RECEIVING THE REQUEST.

9 (B) APPLICATION OF CONTESTED CASE PROVISIONS.

10 THE HEARING SHALL BE HELD IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF
11 THE STATE GOVERNMENT ARTICLE.

12 (C) VENUE.

13 THE HEARING SHALL BE HELD IN THE COUNTY OF THE LEGAL RESIDENCE OF
14 THE FIREARM APPLICANT.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 27, § 442(k)(1), (3), and except as it related to
17 judicial review, (2).

18 In subsections (a)(1) and (c) of this section, the defined term "firearm
19 applicant" is substituted for the former term "aggrieved person" for clarity
20 and consistency.

21 In subsection (a)(1) of this section, the defined term "Secretary" is
22 substituted for the former term "State Police" because the Secretary has
23 the duty to decide applications under this subtitle.

24 In subsection (b) of this section, the reference to "Title 10, Subtitle 2 of the
25 State Government Article" is substituted for the former reference to "the
26 Administrative Procedure Act" to state explicitly the law governing review
27 of the Secretary's decisions.

28 Defined terms: "County" § 1-101

29 "Firearm applicant" § 5-101

30 "Secretary" § 5-101

31 5-127. JUDICIAL REVIEW.

32 ANY SUBSEQUENT JUDICIAL REVIEW SHALL BE HELD IN ACCORDANCE WITH
33 TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 27, § 442(k)(2), as it related to judicial review.

1 %The reference to "Title 10, Subtitle 2 of the State Government Article" is
2 substituted for the former reference to "the Administrative Procedure Act"
3 to state explicitly the law governing judicial review.

4 5-128. PURCHASES WITHIN 30 DAYS -- IN GENERAL.

5 (A) SCOPE OF SUBSECTION.

6 SUBSECTION (B) OF THIS SECTION DOES NOT APPLY TO:

7 (1) A LAW ENFORCEMENT AGENCY;

8 (2) AN AGENCY AUTHORIZED TO PERFORM LAW ENFORCEMENT DUTIES;

9 (3) A STATE OR LOCAL CORRECTIONAL FACILITY;

10 (4) A PRIVATE SECURITY COMPANY LICENSED TO DO BUSINESS IN THE
11 STATE;

12 (5) THE PURCHASE OF AN ANTIQUE FIREARM;

13 (6) A PURCHASE BY A LICENSEE;

14 (7) THE EXCHANGE OR REPLACEMENT OF A REGULATED FIREARM BY A
15 SELLER FOR A REGULATED FIREARM PURCHASED FROM THE SELLER BY THE SAME
16 PERSON SEEKING THE EXCHANGE OR REPLACEMENT WITHIN 30 DAYS IMMEDIATELY
17 BEFORE THE EXCHANGE OR REPLACEMENT; OR

18 (8) A PERSON WHOSE REGULATED FIREARM IS STOLEN OR
19 IRRETRIEVABLY LOST AND WHO CONSIDERS IT ESSENTIAL THAT THE REGULATED
20 FIREARM BE REPLACED IMMEDIATELY, IF:

21 (I) THE PERSON PROVIDES THE LICENSEE WITH A COPY OF THE
22 OFFICIAL POLICE REPORT OR AN OFFICIAL SUMMARY OF THE REPORT, A COPY OF
23 WHICH SHALL BE ATTACHED TO THE FIREARM APPLICATION;

24 (II) THE OFFICIAL POLICE REPORT OR OFFICIAL SUMMARY OF THE
25 REPORT CONTAINS THE NAME AND ADDRESS OF THE REGULATED FIREARM OWNER,
26 A DESCRIPTION OF THE REGULATED FIREARM, THE LOCATION OF THE LOSS OR
27 THEFT, THE DATE OF THE LOSS OR THEFT, AND THE DATE WHEN THE LOSS OR
28 THEFT WAS REPORTED TO THE LAW ENFORCEMENT AGENCY; AND

29 (III) THE LOSS OR THEFT OCCURRED WITHIN 30 DAYS BEFORE THE
30 PERSON'S ATTEMPT TO REPLACE THE REGULATED FIREARM, AS REFLECTED BY THE
31 DATE OF LOSS OR THEFT ON THE OFFICIAL POLICE REPORT OR OFFICIAL SUMMARY
32 OF THE REPORT.

33 (B) ONE PURCHASE LIMIT.

34 A PERSON MAY NOT PURCHASE MORE THAN ONE REGULATED FIREARM IN A
35 30-DAY PERIOD.

1 (C) ON HOLD AND DISAPPROVED APPLICATIONS.

2 A LICENSEE OR OTHER PERSON MAY NOT SELL, RENT, OR TRANSFER A
3 REGULATED FIREARM TO A FIREARM APPLICANT WHOSE FIREARM APPLICATION IS
4 PLACED ON HOLD BECAUSE OF AN OPEN DISPOSITION OF CRIMINAL PROCEEDINGS
5 AGAINST THE FIREARM APPLICANT OR DISAPPROVED, UNLESS THE HOLD OR
6 DISAPPROVAL HAS BEEN SUBSEQUENTLY WITHDRAWN BY THE SECRETARY OR
7 OVERRULED BY A COURT IN ACCORDANCE WITH § 5-127 OF THIS SUBTITLE.

8 (D) PENALTY.

9 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
10 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE
11 NOT EXCEEDING \$5,000 OR BOTH.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 27, §§ 442A(a) and (e) and 449(c).

14 In the introductory language of subsection (a) of this section, the reference
15 to this "section" is substituted for the former reference to this "subsection"
16 to reflect the reorganization of the former provisions concerning the
17 purchase of regulated firearms within a 30-day period in this section. No
18 substantive change is intended.

19 In subsection (a)(2) of this section, the former reference to being "duly"
20 authorized is deleted as unnecessary in describing an agency's authority to
21 perform law enforcement duties.

22 In subsection (a)(8)(iii) of this section, the reference to "the loss or theft" is
23 added to clarify that it is the date of loss or theft and not the date of the
24 report that determines if a regulated firearm is to be replaced immediately.

25 In subsection (b) of this section, the former phrase "[e]xcept as provided in
26 this subsection" is deleted as unnecessary. The provisions to which the
27 former phrase referred are revised in subsection (a) of this section.

28 Defined terms: "Antique firearm" § 5-101

29 "Firearm applicant" § 5-101

30 "Firearm application" § 5-101

31 "Licensee" § 5-101

32 "Person" § 1-101

33 "Regulated firearm" § 5-101

34 "Secretary" § 5-101

35 5-129. SAME -- MULTIPLE PURCHASES ALLOWED.

36 (A) REQUIREMENTS.

37 NOTWITHSTANDING § 5-128(B) OF THIS SUBTITLE, A PERSON MAY PURCHASE
38 MORE THAN ONE REGULATED FIREARM IN A 30-DAY PERIOD IF:

1 (1) THE PERSON APPLIES FOR AND THE SECRETARY APPROVES A
2 MULTIPLE PURCHASE; AND

3 (2) (I) THE PURCHASE OF THE REGULATED FIREARMS IS FOR A
4 PRIVATE COLLECTION OR A COLLECTOR SERIES;

5 (II) THE PURCHASE OF THE REGULATED FIREARMS IS A BULK
6 PURCHASE FROM AN ESTATE SALE;

7 (III) 1. THE PURCHASE OF NOT MORE THAN TWO REGULATED
8 FIREARMS IS A MULTIPLE PURCHASE TO TAKE ADVANTAGE OF A LICENSEE'S
9 DISCOUNTED PRICE AVAILABLE ONLY FOR A MULTIPLE PURCHASE; AND

10 2. THE PURCHASER IS PROHIBITED FROM PURCHASING A
11 REGULATED FIREARM DURING THE FOLLOWING 30-DAY PERIOD UNLESS APPROVED
12 UNDER ITEM (I) OR (II) OF THIS ITEM; OR

13 (IV) THE PURCHASE IS FOR OTHER PURPOSES SIMILAR TO ITEMS (I)
14 THROUGH (III) OF THIS ITEM.

15 (B) APPLICATION.

16 (1) THE APPLICATION FOR A MULTIPLE PURCHASE SHALL:

17 (I) LIST THE REGULATED FIREARMS TO BE PURCHASED;

18 (II) STATE THE PURPOSE OF THE PURCHASE OF MORE THAN ONE
19 REGULATED FIREARM IN A 30-DAY PERIOD;

20 (III) BE WITNESSED BY A LICENSEE OR DESIGNATED LAW
21 ENFORCEMENT AGENCY; AND

22 (IV) BE SIGNED UNDER THE PENALTY OF PERJURY BY THE
23 FIREARM APPLICANT.

24 (2) THE APPLICATION FOR A MULTIPLE PURCHASE OF REGULATED
25 FIREARMS SHALL BE ATTACHED TO A COMPLETED FIREARM APPLICATION AND
26 FORWARDED TO THE SECRETARY BY A LICENSEE OR DESIGNATED LAW
27 ENFORCEMENT AGENCY.

28 (C) BACKGROUND INVESTIGATION.

29 ON RECEIPT OF THE FIREARM APPLICATION AND THE APPLICATION FOR A
30 MULTIPLE PURCHASE, THE SECRETARY SHALL CONDUCT A BACKGROUND
31 INVESTIGATION AS REQUIRED IN § 5-121 OF THIS SUBTITLE.

32 (D) PENALTY.

33 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
34 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE
35 NOT EXCEEDING \$5,000 OR BOTH.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, §§ 442A(b), (c), and (d) and 449(c).

3 In subsection (a)(2)(iv) of this section, the reference to other purposes
4 similar "to items (i) through (iii) of this item" is added for clarity.

5 In the introductory language of subsection (b)(1) of this section, the
6 reference to an application for "a multiple purchase" is added to state
7 explicitly the purpose of the application.

8 In subsection (b)(1)(iv) of this section, the defined term "firearm applicant"
9 is substituted for the former reference to the "applicant" for clarity.

10 In subsections (b)(2) and (c) of this section, the defined term "firearm
11 application" is substituted for the former reference to an application "to
12 purchase a regulated firearm" for brevity and consistency.

13 In subsection (c) of this section, the reference to the requirement that the
14 Secretary "conduct" an investigation is substituted for the former reference
15 that the Secretary "complete" an investigation, to conform to the
16 terminology used in § 5-121 of this subtitle.

17 The Public Safety Article Review Committee notes, for consideration by the
18 General Assembly, that in subsection (a) of this section, although the
19 purchase of more than one regulated firearm in a 30-day period is allowed
20 under this section, the transfer of more than one is not. Therefore, in
21 subsection (b)(1)(i) of this section, the former reference to the regulated
22 firearm to be purchased "or transferred" is deleted in light of the absence
23 in subsection (a) of this section of explicit authority for the transfer of more
24 than one regulated firearm in a 30-day period.

25 Defined terms: "Designated law enforcement agency" § 5-101

26 "Firearm applicant" § 5-101

27 "Firearm application" § 5-101

28 "Licensee" § 5-101

29 "Person" § 1-101

30 "Regulated firearm" § 5-101

31 "Secretary" § 5-101

32 5-130. GUN SHOWS.

33 (A) "GUN SHOW" DEFINED.

34 IN THIS SECTION, "GUN SHOW" MEANS ANY ORGANIZED GATHERING OPEN TO
35 THE PUBLIC AT WHICH ANY FIREARM IS DISPLAYED.

36 (B) SCOPE OF SECTION.

37 SUBSECTIONS (C) THROUGH (H) OF THIS SECTION DO NOT APPLY TO A
38 LICENSEE.

1 (C) TEMPORARY TRANSFER PERMIT REQUIRED.

2 A PERSON MUST OBTAIN A TEMPORARY TRANSFER PERMIT ISSUED BY THE
3 SECRETARY BEFORE THE PERSON DISPLAYS A REGULATED FIREARM FOR SALE OR
4 TRANSFER FROM A TABLE OR FIXED DISPLAY AT A GUN SHOW.

5 (D) APPLICATION FOR TEMPORARY TRANSFER PERMIT.

6 (1) AN APPLICANT FOR A TEMPORARY TRANSFER PERMIT SHALL:

7 (I) SUBMIT TO THE SECRETARY AN APPLICATION ON THE FORM
8 THAT THE SECRETARY PROVIDES; AND

9 (II) PAY TO THE SECRETARY A FEE OF \$10 FOR EACH CALENDAR
10 YEAR.

11 (2) EACH ADDITIONAL TEMPORARY TRANSFER PERMIT DURING THE
12 SAME CALENDAR YEAR SHALL BE ISSUED WITHOUT CHARGE.

13 (E) REQUIRED INFORMATION.

14 THE APPLICATION FOR A TEMPORARY TRANSFER PERMIT SHALL CONTAIN ANY
15 INFORMATION THAT IS NECESSARY FOR THE SECRETARY TO CONDUCT A COMPUTER
16 BACKGROUND INVESTIGATION.

17 (F) REQUIRED WARNING.

18 EACH APPLICATION FOR A TEMPORARY TRANSFER PERMIT SHALL CONTAIN
19 THE FOLLOWING STATEMENT: "ANY FALSE INFORMATION SUPPLIED OR STATEMENT
20 MADE IN THIS APPLICATION IS A CRIME WHICH MAY BE PUNISHED BY
21 IMPRISONMENT FOR A PERIOD OF NOT MORE THAN 3 YEARS OR A FINE NOT MORE
22 THAN \$5,000 OR BOTH."

23 (G) INVESTIGATION OF APPLICATION; GROUNDS FOR DISAPPROVAL.

24 (1) THE SECRETARY SHALL CONDUCT AN INVESTIGATION TO
25 DETERMINE THE TRUTH OR FALSITY OF THE INFORMATION SUPPLIED AND THE
26 STATEMENTS MADE IN THE APPLICATION FOR A TEMPORARY TRANSFER PERMIT.

27 (2) IF THERE IS NO REASON TO DISAPPROVE THE APPLICATION FOR A
28 TEMPORARY TRANSFER PERMIT, THE SECRETARY SHALL ISSUE THE PERMIT WITHIN
29 7 DAYS AFTER THE DATE OF APPLICATION.

30 (3) THE SECRETARY SHALL DISAPPROVE AN APPLICATION FOR A
31 TEMPORARY TRANSFER PERMIT IF THE SECRETARY DETERMINES THAT:

32 (I) THE APPLICANT SUPPLIED FALSE INFORMATION OR MADE A
33 FALSE STATEMENT; OR

34 (II) THE APPLICATION IS NOT PROPERLY COMPLETED.

1 (4) IF THE SECRETARY DISAPPROVES AN APPLICATION FOR A
 2 TEMPORARY TRANSFER PERMIT, THE SECRETARY SHALL NOTIFY THE APPLICANT IN
 3 WRITING OF THE DISAPPROVAL.

4 (H) LABEL AND DISPLAY.

5 (1) A TEMPORARY TRANSFER PERMIT SHALL BE CLEARLY LABELED
 6 "TEMPORARY" AND SHALL INCLUDE THE STATEMENT: "THIS IS NOT A LICENSE TO
 7 ENGAGE IN THE BUSINESS OF SELLING FIREARMS."

8 (2) THE TEMPORARY TRANSFER PERMIT SHALL BE PLACED IN PUBLIC
 9 VIEW AS PART OF ANY DISPLAY OF A REGULATED FIREARM.

10 (I) FIVE PERMIT LIMIT.

11 (1) A PERSON MAY NOT RECEIVE MORE THAN FIVE TEMPORARY
 12 TRANSFER PERMITS DURING A SINGLE CALENDAR YEAR.

13 (2) TO DISPLAY A REGULATED FIREARM FOR SALE, TRADE, OR
 14 TRANSFER AT MORE THAN FIVE GUN SHOWS IN A CALENDAR YEAR, A PERSON SHALL
 15 OBTAIN A DEALER'S LICENSE UNDER THIS SUBTITLE.

16 (J) SALE OR TRANSFER OF REGULATED FIREARM.

17 A SALE OR TRANSFER OF A REGULATED FIREARM FROM A TABLE OR FIXED
 18 DISPLAY AT A GUN SHOW IS GOVERNED BY §§ 5-103, 5-104, 5-117 THROUGH 5-129, AND
 19 5-136 OF THIS SUBTITLE.

20 REVISOR'S NOTE: Subsections (a) through (c) and (d)(1)(ii) through (j) of this
 21 section are new language derived without substantive change from former
 22 Art. 27, §§ 441(k) and 443A.

23 Subsection (d)(1)(i) of this section is new language added to state expressly
 24 that which was only implied in the former law, *i.e.*, applications may be
 25 made only on the form that the Secretary provides.

26 In subsection (c) of this section, the reference to a person's obtaining a
 27 permit "issued by" the Secretary is substituted for the former reference to
 28 a permit "from" the Secretary to conform to the terminology used in §
 29 5-106 of this subtitle concerning the issuance of dealer's licenses.

30 In the introductory language of subsection (g)(3) of this section, the
 31 requirement that the Secretary "shall disapprove" an application is added
 32 to state expressly that which only was implied in the former law, *i.e.*, the
 33 Secretary must disapprove an application if any of the stated conditions
 34 exist.

35 Subsection (g)(3)(i) of this section is revised in the active voice to state
 36 expressly that which only was implied in the former law, *i.e.*, the applicant
 37 is held responsible for supplying false information or making a false

1 statement.

2 In subsection (g)(4) of this section, the clause "[i]f the Secretary
3 disapproves an application for a temporary transfer permit" is added to
4 state expressly that which only was implied in the former law, *i.e.*, the
5 Secretary must send a notice of disapproval if the Secretary disapproves an
6 application.

7 In subsection (h)(2) of this section, the reference to a display "of a regulated
8 firearm" is added for clarity.

9 In subsection (i)(2) of this section, the reference to a person "obtain[ing] a
10 dealer's license under § 5-107 of this subtitle" is substituted for the former
11 reference to the requirement that the person "comply with § 443 of this
12 article" for clarity.

13 In subsection (j) of this section, the reference to "§§ 5-103, 5-104, 5-117
14 through 5-129, and 5-136 of this subtitle" is substituted for the former
15 reference to "§§ 442 and 442A of this article". These revised sections
16 contain all of the provisions of former Art. 27, §§ 442 and 442A.

17 Defined terms: "Dealer's license" § 5-101

18 "Firearm" § 5-101

19 "Licensee" § 5-101

20 "Person" § 1-101

21 "Regulated firearm" § 5-101

22 "Secretary" § 5-101

23 5-131. HANDGUN IDENTIFICATION REQUIREMENTS.

24 (A) DEFINITIONS.

25 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
26 INDICATED.

27 (2) "MANUFACTURER" MEANS A PERSON WHO POSSESSES A FEDERAL
28 LICENSE TO ENGAGE IN THE BUSINESS OF MANUFACTURING FIREARMS OR
29 AMMUNITION FOR SALE OR DISTRIBUTION.

30 (3) "PROJECTILE" MEANS THE PART OF HANDGUN AMMUNITION THAT IS
31 EXPELLED THROUGH THE BARREL OF THE HANDGUN BY AN EXPLOSION.

32 (4) "SHELL CASING" MEANS THE PART OF HANDGUN AMMUNITION THAT
33 CONTAINS THE PRIMER AND PROPELLENT POWDER TO DISCHARGE THE
34 PROJECTILE.

35 (B) MANUFACTURER REQUIREMENTS.

1 A MANUFACTURER THAT SHIPS OR TRANSPORTS A HANDGUN FOR SALE,
2 RENTAL, OR TRANSFER IN THE STATE SHALL INCLUDE IN THE BOX WITH THE
3 HANDGUN IN A SEPARATE, SEALED CONTAINER:

4 (1) A SHELL CASING OF A PROJECTILE DISCHARGED FROM THE
5 HANDGUN; AND

6 (2) ADDITIONAL INFORMATION THAT THE SECRETARY REQUIRES TO
7 IDENTIFY THE TYPE OF HANDGUN AND SHELL CASING.

8 (C) ACTIONS BY DEALER.

9 (1) ON RECEIPT OF A HANDGUN FROM A MANUFACTURER, THE DEALER
10 SHALL CONFIRM TO THE DEPARTMENT OF STATE POLICE THAT THE
11 MANUFACTURER HAS COMPLIED WITH SUBSECTION (B) OF THIS SECTION.

12 (2) ON THE SALE, RENTAL, OR TRANSFER OF THE HANDGUN, THE
13 DEALER SHALL FORWARD THE SEALED CONTAINER TO THE DEPARTMENT OF STATE
14 POLICE CRIME LABORATORY.

15 (D) CRIME LABORATORY DATABASE.

16 ON RECEIPT OF A SHELL CASING AND INFORMATION AS REQUIRED IN
17 SUBSECTION (B) OF THIS SECTION, THE DEPARTMENT OF STATE POLICE CRIME
18 LABORATORY SHALL ENTER THE INFORMATION IN EACH RELEVANT DATABASE.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 27, § 442B(a) through (e).

21 In subsection (a)(2) of this section, the former reference to a "valid" federal
22 license is deleted as implicit.

23 Also in subsection (a)(2) of this section, the former reference to a federal
24 license "issued by the Secretary of the Treasury that permits the person" to
25 engage in the business of manufacturing firearms or ammunition is
26 deleted as implicit in the reference to a "federal license" to engage in the
27 business of manufacturing firearms or ammunition.

28 In subsection (b)(2) of this section, the former reference to information that
29 the Secretary requires "to meet the provisions of this section" is deleted as
30 surplusage.

31 In subsection (c)(2) of this section, the reference to the "rental" of a
32 handgun is added for consistency in light of the introductory language of
33 subsection (b) of this section, which concerns a manufacturer that ships or
34 transports a handgun for sale, "rental", or transfer in the State.

35 Defined terms: "Firearm" § 5-101

36 "Handgun" § 5-101

37 "Licensee" § 5-101

1 "Person" § 1-101

2 "Secretary" § 5-101

3 5-132. HANDGUN SAFETY DEVICES.

4 (A) DEFINITIONS.

5 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (2) "AUTHORIZED USER" MEANS THE OWNER OF A HANDGUN OR A
8 PERSON AUTHORIZED BY THE OWNER TO POSSESS AND USE THE HANDGUN.

9 (3) "EXTERNAL SAFETY LOCK" MEANS AN EXTERNAL DEVICE THAT IS:

10 (I) ATTACHED TO A HANDGUN WITH A KEY OR COMBINATION
11 LOCK; AND

12 (II) DESIGNED TO PREVENT A HANDGUN FROM BEING
13 DISCHARGED UNLESS THE DEVICE HAS BEEN DEACTIVATED.

14 (4) "HANDGUN" DOES NOT INCLUDE A SIGNAL, STARTER, OR BLANK
15 PISTOL.

16 (5) "HANDGUN ROSTER BOARD" MEANS THE HANDGUN ROSTER BOARD
17 ESTABLISHED UNDER § 5-404 OF THIS TITLE.

18 (6) "INTEGRATED MECHANICAL SAFETY DEVICE" MEANS A DISABLING
19 OR LOCKING DEVICE THAT IS:

20 (I) BUILT INTO A HANDGUN; AND

21 (II) DESIGNED TO PREVENT THE HANDGUN FROM BEING
22 DISCHARGED UNLESS THE DEVICE HAS BEEN DEACTIVATED.

23 (7) "PERSONALIZED HANDGUN" MEANS A HANDGUN MANUFACTURED
24 WITH INCORPORATED DESIGN TECHNOLOGY THAT:

25 (I) ALLOWS THE HANDGUN TO BE FIRED ONLY BY THE
26 AUTHORIZED USER; AND

27 (II) PREVENTS ANY OF THE SAFETY CHARACTERISTICS OF THE
28 HANDGUN FROM BEING READILY DEACTIVATED.

29 (B) SCOPE OF SECTION.

30 THIS SECTION DOES NOT APPLY TO:

31 (1) THE PURCHASE, SALE, OR TRANSPORTATION OF A HANDGUN TO OR
32 BY A FEDERALLY LICENSED GUN DEALER OR MANUFACTURER THAT PROVIDES OR
33 SERVICES A HANDGUN FOR:

- 1 (I) PERSONNEL OF ANY UNIT OF THE FEDERAL GOVERNMENT;
- 2 (II) MEMBERS OF THE ARMED FORCES OF THE UNITED STATES OR
3 THE NATIONAL GUARD;
- 4 (III) LAW ENFORCEMENT PERSONNEL OF THE STATE OR ANY LOCAL
5 LAW ENFORCEMENT AGENCY IN THE STATE WHILE ACTING WITHIN THE SCOPE OF
6 THEIR OFFICIAL DUTIES; AND
- 7 (IV) AN ORGANIZATION THAT IS REQUIRED BY FEDERAL LAW
8 GOVERNING ITS SPECIFIC BUSINESS OR ACTIVITY TO MAINTAIN HANDGUNS AND
9 APPLICABLE AMMUNITION;
- 10 (2) A FIREARM MODIFIED TO BE PERMANENTLY INOPERATIVE;
- 11 (3) THE SALE OR TRANSFER OF A HANDGUN BY A FEDERALLY LICENSED
12 GUN DEALER OR MANUFACTURER COVERED UNDER ITEM (1) OF THIS SUBSECTION;
- 13 (4) THE SALE OR TRANSFER OF A HANDGUN BY A FEDERALLY LICENSED
14 GUN DEALER OR MANUFACTURER TO A LAWFUL CUSTOMER OUTSIDE THE STATE; OR
- 15 (5) AN ANTIQUE FIREARM.
- 16 (C) RESTRICTION ON SALE, RENT, OR TRANSFER OF HANDGUNS.
- 17 (1) A DEALER MAY NOT SELL, OFFER FOR SALE, RENT, OR TRANSFER IN
18 THE STATE A HANDGUN MANUFACTURED ON OR BEFORE DECEMBER 31, 2002,
19 UNLESS THE HANDGUN IS SOLD, OFFERED FOR SALE, RENTED, OR TRANSFERRED
20 WITH AN EXTERNAL SAFETY LOCK.
- 21 (2) ON OR AFTER JANUARY 1, 2003, A DEALER MAY NOT SELL, OFFER FOR
22 SALE, RENT, OR TRANSFER IN THE STATE A HANDGUN MANUFACTURED ON OR
23 AFTER JANUARY 1, 2003, UNLESS THE HANDGUN HAS AN INTEGRATED MECHANICAL
24 SAFETY DEVICE.
- 25 (D) REPORT.
- 26 (1) THE HANDGUN ROSTER BOARD ANNUALLY SHALL:
- 27 (I) REVIEW THE STATUS OF PERSONALIZED HANDGUN
28 TECHNOLOGY; AND
- 29 (II) ON OR BEFORE JULY 1, REPORT ITS FINDINGS TO THE
30 GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT
31 ARTICLE, TO THE GENERAL ASSEMBLY.
- 32 (2) IN REVIEWING THE STATUS OF PERSONALIZED HANDGUN
33 TECHNOLOGY UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE HANDGUN ROSTER
34 BOARD SHALL CONSIDER:

1 (I) THE NUMBER AND VARIETY OF MODELS AND CALIBERS OF
2 PERSONALIZED HANDGUNS THAT ARE AVAILABLE FOR SALE;

3 (II) EACH STUDY, ANALYSIS, OR OTHER EVALUATION OF
4 PERSONALIZED HANDGUNS CONDUCTED OR COMMISSIONED BY:

5 1. THE NATIONAL INSTITUTE OF JUSTICE;

6 2. A FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT
7 LABORATORY; OR

8 3. ANY OTHER ENTITY WITH AN EXPERTISE IN HANDGUN
9 TECHNOLOGY; AND

10 (III) ANY OTHER INFORMATION THAT THE HANDGUN ROSTER
11 BOARD CONSIDERS RELEVANT.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 27, § 442C.

14 In subsection (a)(2) of this section, the conjunction "or" is substituted for
15 the former conjunction "and" because the phrases "the owner of a
16 handgun" and "a person authorized by the owner" represent alternatives in
17 the definition.

18 In subsection (b)(1), (3), and (4) of this section, the reference to "federally"
19 licensed gun dealer or manufacturer is added to clarify that the federal
20 government licenses gun dealers and manufacturers.

21 In subsection (b)(1)(i) of this section, the reference to personnel "of any unit
22 of the federal government" is substituted for the former reference to
23 personnel "of the United States government or any agency or department
24 of the United States" for brevity.

25 In subsection (b)(1)(iii) of this section, the reference to personnel acting
26 within the scope of their official "duties" is substituted for the former
27 reference to their official "business" to conform to the terminology used
28 throughout this title.

29 In subsection (b)(1)(iv) of this section, the former reference to federal
30 "regulations" is deleted as included in the reference to federal "law".

31 In subsection (d)(1) of this section, the former phrase "beginning on or
32 before July 1, 2002" is deleted as obsolete.

33 Defined terms: "Antique firearm" § 5-101

34 "Dealer" § 5-101

35 "Firearm" § 5-101

36 "Handgun" § 5-101

37 "Licensee" § 5-101

1 "Person" § 1-101

2 5-133. RESTRICTIONS ON POSSESSION OF REGULATED FIREARMS.

3 (A) PREEMPTION BY STATE.

4 THIS SECTION SUPERSEDES ANY RESTRICTION THAT A LOCAL JURISDICTION IN
5 THE STATE IMPOSES ON THE POSSESSION BY A PRIVATE PARTY OF A REGULATED
6 FIREARM, AND THE STATE PREEMPTS THE RIGHT OF ANY LOCAL JURISDICTION TO
7 REGULATE THE POSSESSION OF A REGULATED FIREARM.

8 (B) POSSESSION OF REGULATED FIREARM PROHIBITED.

9 A PERSON MAY NOT POSSESS A REGULATED FIREARM IF THE PERSON:

10 (1) HAS BEEN CONVICTED OF A DISQUALIFYING CRIME;

11 (2) HAS BEEN CONVICTED OF A VIOLATION CLASSIFIED AS A COMMON
12 LAW CRIME AND RECEIVED A TERM OF IMPRISONMENT OF MORE THAN 2 YEARS;

13 (3) IS A FUGITIVE FROM JUSTICE;

14 (4) IS A HABITUAL DRUNKARD;

15 (5) IS ADDICTED TO A CONTROLLED DANGEROUS SUBSTANCE OR IS A
16 HABITUAL USER;

17 (6) SUFFERS FROM A MENTAL DISORDER AS DEFINED IN § 10-101(F)(2)
18 OF THE HEALTH - GENERAL ARTICLE AND HAS A HISTORY OF VIOLENT BEHAVIOR
19 AGAINST THE PERSON OR ANOTHER, UNLESS THE PERSON HAS A PHYSICIAN'S
20 CERTIFICATE THAT THE PERSON IS CAPABLE OF POSSESSING A REGULATED
21 FIREARM WITHOUT UNDUE DANGER TO THE PERSON OR TO ANOTHER;

22 (7) HAS BEEN CONFINED FOR MORE THAN 30 CONSECUTIVE DAYS TO A
23 FACILITY AS DEFINED IN § 10-101 OF THE HEALTH - GENERAL ARTICLE, UNLESS THE
24 PERSON HAS A PHYSICIAN'S CERTIFICATE THAT THE PERSON IS CAPABLE OF
25 POSSESSING A REGULATED FIREARM WITHOUT UNDUE DANGER TO THE PERSON OR
26 TO ANOTHER;

27 (8) IS A RESPONDENT AGAINST WHOM A CURRENT NON EX PARTE CIVIL
28 PROTECTIVE ORDER HAS BEEN ENTERED UNDER § 4-506 OF THE FAMILY LAW
29 ARTICLE; OR

30 (9) IF UNDER THE AGE OF 30 YEARS AT THE TIME OF POSSESSION, HAS
31 BEEN ADJUDICATED DELINQUENT BY A JUVENILE COURT FOR AN ACT THAT WOULD
32 BE A DISQUALIFYING CRIME IF COMMITTED BY AN ADULT.

33 (C) PENALTY FOR POSSESSION BY CONVICTED FELON.

34 (1) A PERSON MAY NOT POSSESS A REGULATED FIREARM IF THE
35 PERSON WAS PREVIOUSLY CONVICTED OF:

1 (I) A CRIME OF VIOLENCE;

2 (II) A VIOLATION OF § 5-602, § 5-603, § 5-604, § 5-605, § 5-606, § 5-607,
3 § 5-608, § 5-609, § 5-612, § 5-613, OR § 5-614 OF THE CRIMINAL LAW ARTICLE; OR

4 (III) ANY OTHER VIOLATION CLASSIFIED AS A FELONY IN THE
5 STATE.

6 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A FELONY
7 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT LESS THAN 5 YEARS,
8 NO PART OF WHICH MAY BE SUSPENDED.

9 (3) A PERSON SENTENCED UNDER PARAGRAPH (1) OF THIS SUBSECTION
10 MAY NOT BE ELIGIBLE FOR PAROLE.

11 (4) EACH VIOLATION OF THIS SUBSECTION IS A SEPARATE CRIME.

12 (D) POSSESSION BY PERSON UNDER AGE OF 21 YEARS PROHIBITED;
13 EXCEPTIONS.

14 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
15 PERSON WHO IS UNDER THE AGE OF 21 YEARS MAY NOT POSSESS A REGULATED
16 FIREARM OR AMMUNITION SOLELY DESIGNED FOR A REGULATED FIREARM.

17 (2) UNLESS A PERSON IS OTHERWISE PROHIBITED FROM POSSESSING A
18 REGULATED FIREARM, THIS SUBSECTION DOES NOT APPLY TO:

19 (I) THE TEMPORARY TRANSFER OR POSSESSION OF A REGULATED
20 FIREARM OR AMMUNITION SOLELY DESIGNED FOR A REGULATED FIREARM IF THE
21 PERSON IS:

22 1. UNDER THE SUPERVISION OF ANOTHER WHO IS AT LEAST
23 21 YEARS OLD AND WHO IS NOT PROHIBITED BY STATE OR FEDERAL LAW FROM
24 POSSESSING A FIREARM; AND

25 2. ACTING WITH THE PERMISSION OF THE PARENT OR
26 LEGAL GUARDIAN OF THE TRANSFEREE OR PERSON IN POSSESSION;

27 (II) THE TRANSFER BY INHERITANCE OF TITLE, AND NOT OF
28 POSSESSION, OF A REGULATED FIREARM;

29 (III) A MEMBER OF THE ARMED FORCES OF THE UNITED STATES OR
30 THE NATIONAL GUARD WHILE PERFORMING OFFICIAL DUTIES;

31 (IV) THE TEMPORARY TRANSFER OR POSSESSION OF A REGULATED
32 FIREARM OR AMMUNITION SOLELY DESIGNED FOR A REGULATED FIREARM IF THE
33 PERSON IS:

34 1. PARTICIPATING IN MARKSMANSHIP TRAINING OF A
35 RECOGNIZED ORGANIZATION; AND

1 2. UNDER THE SUPERVISION OF A QUALIFIED INSTRUCTOR;

2 (V) A PERSON WHO IS REQUIRED TO POSSESS A REGULATED
3 FIREARM FOR EMPLOYMENT AND WHO HOLDS A PERMIT UNDER SUBTITLE 3 OF THIS
4 TITLE; OR

5 (VI) THE POSSESSION OF A FIREARM OR AMMUNITION FOR
6 SELF-DEFENSE OR THE DEFENSE OF OTHERS AGAINST A TRESPASSER INTO THE
7 RESIDENCE OF THE PERSON IN POSSESSION OR INTO A RESIDENCE IN WHICH THE
8 PERSON IN POSSESSION IS AN INVITED GUEST.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 27, §§ 449(e) and 445(d), (e), and, except as it
11 related to the transfer of regulated firearms, (a).

12 In subsection (a) of this section, the references to a "local" jurisdiction are
13 substituted for the former references to "subordinate" jurisdictions and
14 "such" jurisdictions to conform to the terminology used throughout this
15 title and in other revised articles of the Code.

16 Also in subsection (a) of this section, the former reference to restrictions
17 imposed "by the laws, ordinances or regulations" of local jurisdictions is
18 deleted as surplusage.

19 In subsection (b)(9) of this section, the reference to an adjudication for an
20 "act" that would be a disqualifying crime "if committed by an adult" is
21 added for consistency with § 5-306 of this title.

22 In subsection (c)(4) of this section, the reference to a "crime" is substituted
23 for the former reference to an "offense" to conform to the terminology used
24 in the Criminal Procedure Article and the Criminal Law Article.

25 In subsection (d)(2)(i) and (iv) of this section, the former phrases "if the
26 person is under 21 years of age" are deleted as duplicative in light of
27 subsection (d)(1) of this section.

28 The Public Safety Article Review Committee notes, for consideration by the
29 General Assembly, that the meaning of the reference in former Art. 27, §
30 449(e) to a person "who is in illegal possession of a firearm as defined in §
31 445(d)(1)(i) and (ii) of [Art. 27]" is unclear. Former Art. 27, § 445(d)(1)(i)
32 and (ii) prohibited a person who has been convicted of a crime of violence or
33 any violation classified as a felony in this State from possessing a
34 regulated firearm. The General Assembly may wish to clarify the meaning
35 of former Art. 27, § 449(e), which is revised in subsection (c) of this section.

36 Defined terms: "Crime of violence" § 5-101

37 "Disqualifying crime" § 5-101

38 "Firearm" § 5-101

39 "Fugitive from justice" § 5-101

40 "Habitual drunkard" § 5-101

1 "Habitual user" § 5-101

2 "Person" § 1-101

3 "Regulated firearm" § 5-101

4 5-134. RESTRICTIONS ON SALE, RENTAL, OR TRANSFER OF REGULATED FIREARMS.

5 (A) PREEMPTION BY STATE.

6 THIS SECTION SUPERSEDES ANY RESTRICTION THAT A LOCAL JURISDICTION IN
7 THE STATE IMPOSES ON THE TRANSFER BY A PRIVATE PARTY OF A REGULATED
8 FIREARM, AND THE STATE PREEMPTS THE RIGHT OF ANY LOCAL JURISDICTION TO
9 REGULATE THE TRANSFER OF A REGULATED FIREARM.

10 (B) SALE, RENTAL, OR TRANSFER OF REGULATED FIREARM PROHIBITED.

11 A DEALER OR OTHER PERSON MAY NOT SELL, RENT, OR TRANSFER A
12 REGULATED FIREARM TO A PURCHASER, LESSEE, OR TRANSFEREE WHO THE DEALER
13 OR OTHER PERSON KNOWS OR HAS REASONABLE CAUSE TO BELIEVE:

14 (1) IS UNDER THE AGE OF 21 YEARS;

15 (2) HAS BEEN CONVICTED OF A DISQUALIFYING CRIME;

16 (3) HAS BEEN CONVICTED OF A CONSPIRACY TO COMMIT A FELONY;

17 (4) HAS BEEN CONVICTED OF A VIOLATION CLASSIFIED AS A COMMON
18 LAW CRIME AND RECEIVED A TERM OF IMPRISONMENT OF MORE THAN 2 YEARS;

19 (5) IS A FUGITIVE FROM JUSTICE;

20 (6) IS A HABITUAL DRUNKARD;

21 (7) IS ADDICTED TO A CONTROLLED DANGEROUS SUBSTANCE OR IS A
22 HABITUAL USER;

23 (8) SUFFERS FROM A MENTAL DISORDER AS DEFINED IN § 10-101(F)(2)
24 OF THE HEALTH - GENERAL ARTICLE, AND HAS A HISTORY OF VIOLENT BEHAVIOR
25 AGAINST THE PURCHASER, LESSEE, OR TRANSFEREE OR ANOTHER, UNLESS THE
26 PURCHASER, LESSEE, OR TRANSFEREE POSSESSES A PHYSICIAN'S CERTIFICATE
27 THAT THE RECIPIENT IS CAPABLE OF POSSESSING A REGULATED FIREARM WITHOUT
28 UNDUE DANGER TO THE PURCHASER, LESSEE, OR TRANSFEREE OR TO ANOTHER;

29 (9) HAS BEEN CONFINED FOR MORE THAN 30 CONSECUTIVE DAYS TO A
30 FACILITY AS DEFINED IN § 10-101 OF THE HEALTH - GENERAL ARTICLE, UNLESS THE
31 PURCHASER, LESSEE, OR TRANSFEREE POSSESSES A PHYSICIAN'S CERTIFICATE
32 THAT THE RECIPIENT IS CAPABLE OF POSSESSING A REGULATED FIREARM WITHOUT
33 UNDUE DANGER TO THE PURCHASER, LESSEE, OR TRANSFEREE OR TO ANOTHER;

34 (10) IS A RESPONDENT AGAINST WHOM A CURRENT NON EX PARTE CIVIL
35 PROTECTIVE ORDER HAS BEEN ENTERED UNDER § 4-506 OF THE FAMILY LAW
36 ARTICLE;

1 (11) IF UNDER THE AGE OF 30 YEARS AT THE TIME OF THE TRANSACTION,
2 HAS BEEN ADJUDICATED DELINQUENT BY A JUVENILE COURT FOR AN ACT THAT
3 WOULD BE A DISQUALIFYING CRIME IF COMMITTED BY AN ADULT;

4 (12) IS VISIBLY UNDER THE INFLUENCE OF ALCOHOL OR DRUGS;

5 (13) IS A PARTICIPANT IN A STRAW PURCHASE; OR

6 (14) SUBJECT TO SUBSECTION (C) OF THIS SECTION FOR A TRANSACTION
7 UNDER THIS SUBSECTION THAT IS MADE ON OR AFTER JANUARY 1, 2002, HAS NOT
8 COMPLETED A CERTIFIED FIREARMS SAFETY TRAINING COURSE CONDUCTED FREE
9 OF CHARGE BY THE POLICE TRAINING COMMISSION OR THAT MEETS STANDARDS
10 ESTABLISHED BY THE POLICE TRAINING COMMISSION UNDER § 3-207 OF THIS
11 ARTICLE.

12 (C) EXEMPTION FROM CERTIFIED FIREARMS TRAINING COURSE
13 REQUIREMENT.

14 A PERSON IS NOT REQUIRED TO COMPLETE A CERTIFIED FIREARMS SAFETY
15 TRAINING COURSE UNDER SUBSECTION (B)(14) OF THIS SECTION AND § 5-118(B)(3)(X)
16 OF THIS SUBTITLE IF THE PERSON:

17 (1) HAS ALREADY COMPLETED A CERTIFIED FIREARMS SAFETY
18 TRAINING COURSE REQUIRED UNDER SUBSECTION (B)(14) OF THIS SECTION AND §
19 5-118(B)(3)(X) OF THIS SUBTITLE;

20 (2) IS A LAW ENFORCEMENT OFFICER OF THE STATE OR ANY LOCAL
21 LAW ENFORCEMENT AGENCY IN THE STATE;

22 (3) IS A MEMBER, RETIRED MEMBER, OR HONORABLY DISCHARGED
23 MEMBER OF THE ARMED FORCES OF THE UNITED STATES OR THE NATIONAL GUARD;

24 (4) IS A MEMBER OF AN ORGANIZATION THAT IS REQUIRED BY FEDERAL
25 LAW GOVERNING ITS SPECIFIC BUSINESS OR ACTIVITY TO MAINTAIN HANDGUNS
26 AND APPLICABLE AMMUNITION; OR

27 (5) HAS BEEN ISSUED A PERMIT TO CARRY A HANDGUN UNDER
28 SUBTITLE 3 OF THIS TITLE.

29 (D) SALE, RENTAL, OR TRANSFER OF REGULATED FIREARM TO MINOR
30 PROHIBITED.

31 (1) A PERSON MAY NOT SELL, RENT, OR TRANSFER:

32 (I) AMMUNITION SOLELY DESIGNED FOR A REGULATED FIREARM
33 TO A PERSON WHO IS UNDER THE AGE OF 21 YEARS; OR

34 (II) 1. A FIREARM OTHER THAN A REGULATED FIREARM TO A
35 MINOR;

36 2. AMMUNITION FOR A FIREARM TO A MINOR;

1 3. PEPPER MACE, WHICH IS AN AEROSOL PROPELLED
2 COMBINATION OF HIGHLY DISABLING IRRITANT BASED PRODUCTS AND IS ALSO
3 KNOWN AS OLEO-RESIN CAPSICUM (O.C.) SPRAY, TO A MINOR; OR

4 4. ANOTHER DEADLY WEAPON TO A MINOR.

5 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
6 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
7 EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 27, §§ 441(p), 449(a), and 445(b), (b-1), (c), and, as
10 it related to the transfer of regulated firearms, (a).

11 In subsection (a) of this section, the references to a "local" jurisdiction are
12 substituted for the former references to "subordinate" jurisdictions and
13 "such" jurisdiction to conform to the terminology used throughout this title
14 and in other revised articles of the Code.

15 Also in subsection (a) of this section, the former reference to restrictions
16 imposed "by the laws, ordinances or regulations" of local jurisdictions is
17 deleted as surplusage.

18 In subsection (b)(3) of this section, the reference to a "felony" is substituted
19 for the former reference to "any crimes established by those sections" for
20 brevity.

21 In subsection (b)(11) of this section, the reference to an adjudication for an
22 "act" that would be a disqualifying crime "if committed by an adult" is
23 added for consistency with § 5-306 of this title.

24 In subsection (c)(4) of this section, the former reference to federal
25 "regulations" is deleted as implicit in the reference to federal "law".

26 In subsection (c)(5) of this section, the reference to "Subtitle 3 of this title"
27 is substituted for the former reference to "§ 36E of this article" to reflect
28 the reorganization of the former provisions on handgun permits. In the
29 revision, the reference is broader because Subtitle 3 of this title includes
30 some provisions not in former § 36E. No substantive change is intended.

31 The Public Safety Article Review Committee notes, for consideration by the
32 General Assembly, that in the introductory language of subsection (c) of
33 this section and in subsection (c)(1) of this section, the cross-references to
34 "subsection (b)(14) of this section" are misleading because, although the
35 course requirement is mentioned, subsection (b)(14) of this section does not
36 require a firearm applicant to complete the course.

37 Defined terms: "Dealer" § 5-101

38 "Disqualifying crime" § 5-101

39 "Firearm" § 5-101

- 1 "Fugitive from justice" § 5-101
2 "Habitual drunkard" § 5-101
3 "Habitual user" § 5-101
4 "Handgun" § 5-101
5 "Person" § 1-101
6 "Regulated firearm" § 5-101
7 "Straw purchase" § 5-101

8 5-135. REGULATED FIREARMS SUBJECT TO SEIZURE.

9 A REGULATED FIREARM THAT IS SOLD, RENTED, TRANSFERRED, POSSESSED,
10 RECEIVED, OR PURCHASED IN VIOLATION OF THIS SUBTITLE MAY BE:

- 11 (1) SEIZED BY A LAW ENFORCEMENT AGENCY AS CONTRABAND; AND
12 (2) AFTER A FINDING OF GUILT, DISPOSED OF IN ACCORDANCE WITH
13 TITLE 13, SUBTITLE 2 OF THE CRIMINAL PROCEDURE ARTICLE.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 27, § 445B.

16 Defined term: "Regulated firearm" § 5-101

17 5-136. STRAW PURCHASES.

18 (A) SCOPE OF SECTION.

19 (1) THIS SECTION DOES NOT APPLY TO A PERSON WHO PURCHASES A
20 REGULATED FIREARM AS A GIFT IF:

21 (I) THE REGULATED FIREARM IS A GIFT TO A RESIDENT OF THE
22 STATE; AND

23 (II) 1. BOTH THE PURCHASER AND RECIPIENT OF THE GIFT
24 COMPLY WITH THE REQUIREMENTS OF THIS SUBTITLE THAT RELATE TO THE
25 POSSESSION, SALE, RENTAL, RECEIPT, TRANSFER, OR PURCHASE OF A REGULATED
26 FIREARM; OR

27 2. IF THE GIFT IS IN THE FORM OF A GIFT CERTIFICATE,
28 ONLY THE RECIPIENT OF THE GIFT NEED COMPLY WITH THE REQUIREMENTS OF
29 THIS SUBTITLE THAT RELATE TO THE POSSESSION, SALE, RENTAL, RECEIPT,
30 TRANSFER, OR PURCHASE OF A REGULATED FIREARM.

31 (2) IF THE REGULATED FIREARM IS A GIFT TO THE PURCHASER'S
32 SPOUSE, PARENT, GRANDPARENT, GRANDCHILD, SIBLING, OR CHILD, THE RECIPIENT
33 SHALL:

34 (I) COMPLETE AN APPLICATION TO PURCHASE OR TRANSFER A
35 REGULATED FIREARM; AND

1 (II) FORWARD THE APPLICATION TO THE SECRETARY WITHIN 5
2 DAYS AFTER RECEIPT OF THE REGULATED FIREARM.

3 (3) THE SECRETARY SHALL WAIVE THE \$10 APPLICATION FEE REQUIRED
4 UNDER § 5-118(A)(2) OF THIS SUBTITLE FOR A GIFT PURCHASED IN ACCORDANCE
5 WITH THIS SUBSECTION.

6 (B) PROHIBITED.

7 A PERSON MAY NOT KNOWINGLY OR WILLFULLY PARTICIPATE IN A STRAW
8 PURCHASE OF A REGULATED FIREARM.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 27, § 442(b).

11 In subsection (a)(2) of this section, the reference to "the purchaser's"
12 spouse, parent, grandparent, grandchild, sibling, or child is added for
13 clarity.

14 In subsection (a)(3) of this section, the reference to an application fee "for a
15 gift purchased in accordance with this subsection" is added for clarity.

16 Also in subsection (a)(3) of this section, the reference to the application fee
17 "under § 5-118(a)(2) of this subtitle", which revises former Art. 27, §
18 442(f)(1), is substituted for the former erroneous reference to "subsection
19 (g) of this section". Former Art. 27, § 442(g) referred to the statement
20 required in a firearm application and is revised in § 5-118(c) of this
21 subtitle.

22 Defined terms: "Person" § 1-101

23 "Regulated firearm" § 5-101

24 "Secretary" § 5-101

25 "Straw purchase" § 5-101

26 5-137. OUT-OF-STATE PURCHASES.

27 (A) REQUIREMENTS FOR PURCHASE.

28 A PERSON WHO SEEKS TO OWN A REGULATED FIREARM AND PURCHASES THE
29 REGULATED FIREARM FROM AN OUT-OF-STATE FEDERALLY LICENSED GUN
30 IMPORTER, MANUFACTURER, OR DEALER SHALL:

31 (1) HAVE THE FEDERALLY LICENSED IMPORTER, MANUFACTURER, OR
32 DEALERSHIP THE REGULATED FIREARM TO A LICENSEE FOR PROCESSING; AND

33 (2) COMPLY WITH §§ 5-103, 5-104, 5-117 THROUGH 5-129, AND 5-136 OF
34 THIS SUBTITLE.

35 (B) WAIVER OF REQUIREMENTS.

1 IF A PERSON PURCHASES A REGULATED FIREARM FOR USE WITHIN THE SCOPE
2 OF THE PERSON'S OFFICIAL DUTIES, THE SECRETARY MAY WAIVE THE 7-DAY
3 WAITING PERIOD UNDER § 5-124 OF THIS SUBTITLE FOR:

4 (1) LAW ENFORCEMENT PERSONNEL OF ANY UNIT OF THE FEDERAL
5 GOVERNMENT;

6 (2) MEMBERS OF THE ARMED FORCES OF THE UNITED STATES OR THE
7 NATIONAL GUARD; OR

8 (3) LAW ENFORCEMENT PERSONNEL OF THE STATE OR ANY LOCAL
9 AGENCY IN THE STATE.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 27, § 445A.

12 In the introductory language of subsection (a) and in subsection (a)(1) of
13 this section, the reference to a "federally" licensed importer, manufacturer,
14 or dealer is added to clarify that the federal government is the licensing
15 authority for importers, manufacturers, and dealers under this provision.

16 In subsection (a)(2) of this subtitle, the reference to "§§ 5-103, 5-104,
17 5-117 through 5-129, and 5-136 of this subtitle" is substituted for the
18 former reference to "§§ 442 and 442A of this subheading". These revised
19 sections contain all of the provisions of former Art. 27, §§ 442 and 442A.

20 Defined terms: "Licensee" § 5-101

21 "Person" § 1-101

22 "Regulated firearm" § 5-101

23 "Secretary" § 5-101

24 5-138. SALE, TRANSFER, OR DISPOSAL OF STOLEN REGULATED FIREARM
25 PROHIBITED.

26 A PERSON MAY NOT POSSESS, SELL, TRANSFER, OR OTHERWISE DISPOSE OF A
27 STOLEN REGULATED FIREARM IF THE PERSON KNOWS OR HAS REASONABLE CAUSE
28 TO BELIEVE THAT THE REGULATED FIREARM HAS BEEN STOLEN.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 27, § 446.

31 Defined terms: "Person" § 1-101

32 "Regulated firearm" § 5-101

33 5-139. FALSE INFORMATION OR MISSTATEMENT IN APPLICATION.

34 (A) PROHIBITED.

1 A PERSON MAY NOT KNOWINGLY GIVE FALSE INFORMATION OR MAKE A
2 MATERIAL MISSTATEMENT IN A FIREARM APPLICATION OR IN AN APPLICATION FOR
3 A DEALER'S LICENSE.

4 (B) PENALTY.

5 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
6 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE
7 NOT EXCEEDING \$5,000 OR BOTH.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 27, § 449(b).

10 Defined terms: "Dealer's license" § 5-101

11 "Firearm application" § 5-101

12 "Person" § 1-101

13 5-140. TRANSPORTING REGULATED FIREARM FOR UNLAWFUL SALE OR
14 TRAFFICKING.

15 (A) PROHIBITED.

16 A DEALER OR OTHER PERSON MAY NOT TRANSPORT A REGULATED FIREARM
17 INTO THE STATE FOR THE PURPOSE OF UNLAWFULLY SELLING OR TRAFFICKING OF
18 THE REGULATED FIREARM.

19 (B) PENALTY.

20 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
21 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A
22 FINE NOT EXCEEDING \$25,000 OR BOTH.

23 (C) SEPARATE CRIME.

24 EACH VIOLATION OF THIS SECTION IS A SEPARATE CRIME.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 27, § 449(d), except as it related to straw
27 purchases.

28 Defined terms: "Dealer" § 5-101

29 "Person" § 1-101

30 "Regulated firearm" § 5-101

31 5-141. KNOWING PARTICIPATION IN STRAW PURCHASE.

32 (A) PROHIBITED.

33 A DEALER OR OTHER PERSON MAY NOT BE A KNOWING PARTICIPANT IN A
34 STRAW PURCHASE OF A REGULATED FIREARM TO A MINOR OR TO A PERSON
35 PROHIBITED BY LAW FROM POSSESSING A REGULATED FIREARM.

1 (B) PENALTY.

2 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
3 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A
4 FINE NOT EXCEEDING \$25,000 OR BOTH.

5 (C) SEPARATE CRIME.

6 EACH VIOLATION OF THIS SECTION IS A SEPARATE CRIME.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 27, § 449(d), as it related to straw purchases.

9 In subsection (a) of this section, the reference to a "person prohibited by
10 law from possessing a regulated firearm" is substituted for the former
11 reference to a "prohibited person" for clarity.

12 Defined terms: "Dealer" § 5-101

13 "Person" § 1-101

14 "Regulated firearm" § 5-101

15 "Straw purchase" § 5-101

16 5-142. REMOVAL OR ALTERATION OF IDENTIFICATION MARK OR NUMBER ON
17 FIREARM.

18 (A) PROHIBITED.

19 A PERSON MAY NOT OBLITERATE, REMOVE, CHANGE, OR ALTER THE
20 MANUFACTURER'S IDENTIFICATION MARK OR NUMBER ON A FIREARM.

21 (B) PRESUMPTION.

22 IF ON TRIAL FOR A VIOLATION OF THIS SECTION POSSESSION OF THE FIREARM
23 BY THE DEFENDANT IS ESTABLISHED, THE DEFENDANT IS PRESUMED TO HAVE
24 OBLITERATED, REMOVED, CHANGED, OR ALTERED THE MANUFACTURER'S
25 IDENTIFICATION MARK OR NUMBER ON THE FIREARM.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, § 444.

28 Defined terms: "Firearm" § 5-101

29 "Person" § 1-101

30 5-143. KNOWING PARTICIPATION IN VIOLATION OF SUBTITLE.

31 (A) PROHIBITED.

32 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A DEALER OR OTHER
33 PERSON MAY NOT KNOWINGLY PARTICIPATE IN THE ILLEGAL SALE, RENTAL,
34 TRANSFER, PURCHASE, POSSESSION, OR RECEIPT OF A REGULATED FIREARM IN
35 VIOLATION OF THIS SUBTITLE.

1 (B) PENALTY.

2 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
3 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE
4 NOT EXCEEDING \$10,000 OR BOTH.

5 (C) SEPARATE CRIME.

6 EACH VIOLATION OF THIS SECTION IS A SEPARATE CRIME.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 27, § 449(f).

9 In subsection (a) of this section, the reference to this "subtitle" is
10 substituted for the former reference to this "section" even though this
11 subtitle is derived, in part, from provisions outside of former Art. 27, § 449.
12 Because the provisions revised in this subtitle do not affect the application
13 of this subtitle in a way contrary to the provisions set forth here, no
14 substantive change results.

15 Defined terms: "Dealer" § 5-101

16 "Person" § 1-101

17 "Regulated firearm" § 5-101

18 REVISOR'S NOTE TO SUBTITLE: The Public Safety Article Review
19 Committee notes, for consideration by the General Assembly, that throughout this
20 subtitle exceptions or exemptions from certain provisions or requirements are
21 provided for law enforcement personnel or law enforcement officers. There seems to
22 be no consistency in these provisions. For example, law enforcement personnel of the
23 federal government and law enforcement personnel of the State are exempted from
24 this subtitle while acting within the scope of their official duties. *See* § 5-102(4) of this
25 subtitle. A firearm applicant is exempted from the requirement to complete a certified
26 firearms training course if the applicant is a law enforcement officer of the State or a
27 local law enforcement agency. *See* § 5-119(2) of this subtitle. *See also* § 5-134(c)(2) of
28 this subtitle. The Secretary of State Police may waive the 7-day waiting period under
29 § 5-124 of this subtitle for law enforcement personnel of the State if the person
30 purchases a regulated firearm for use within the scope of the person's official duties.
31 *See* § 5-137(b)(3) of this subtitle. The General Assembly may wish to standardize
32 these references. *See also* § 5-203(a)(1) of this title.

33 SUBTITLE 2. RIFLES AND SHOTGUNS.

34 5-201. DEFINITIONS.

35 (A) IN GENERAL.

36 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

37 REVISOR'S NOTE: This subsection is new language derived without
38 substantive change from former Art. 27, § 481C(a)(1).

1 %The reference to this "subtitle" is substituted for the former reference to
2 this "section" for consistency in this subtitle, even though the terms "rifle"
3 and "shotgun" as used in §§ 5-204 and 5-205 of this subtitle were not
4 explicitly in the scope of former § 481C. However, § 5-204 of this subtitle,
5 because it contains references to a "federally licensed gun dealer",
6 implicitly refers to the definitions of "rifle" and "shotgun" in federal law.
7 *See* 18 U.S.C. § 921. Similarly, § 5-205 of this subtitle, which prohibits
8 possession of a "rifle or shotgun" by a person suffering from a mental
9 disorder, implicitly refers to the federal law definitions or their
10 substantively identical counterparts under State law. *See* CR § 4-201.
11 Because the terms "rifle" and "shotgun" are defined in this subtitle to be
12 substantively identical to the definitions in 18 U.S.C. § 921 and CR §
13 4-201, no substantive change results.

14 (B) RIFLE.

15 "RIFLE" HAS THE MEANING STATED IN § 4-201 OF THE CRIMINAL LAW ARTICLE.

16 REVISOR'S NOTE: This subsection is new language derived without
17 substantive change from former Art. 27, § 481C(a)(2).

18 This subsection is revised to conform to the definition of "rifle" in § 4-201
19 of the Criminal Law Article to avoid the possibility of unintended language
20 variations if the definition in the Criminal Law Article is amended in the
21 future. Former Art. 27, § 36F(d), from which CR § 4-201(e) was derived,
22 and former Art. 27, § 481C(a)(2), from which this subsection is derived,
23 were identical provisions.

24 (C) SHORT-BARRELED RIFLE.

25 "SHORT-BARRELED RIFLE" HAS THE MEANING STATED IN § 4-201 OF THE
26 CRIMINAL LAW ARTICLE.

27 REVISOR'S NOTE: This subsection is new language derived without
28 substantive change from former Art. 27, § 481C(a)(4).

29 This subsection is revised to conform to the definition of "short-barreled
30 rifle" in § 4-201 of the Criminal Law Article to avoid the possibility of
31 unintended language variations if the definition in the Criminal Law
32 Article is amended in the future. Former Art. 27, § 36F(f), from which CR
33 § 4-201(f) was derived, and former Art. 27, § 481C(a)(4), from which this
34 subsection is derived, were substantially identical provisions.

35 (D) SHORT-BARRELED SHOTGUN.

36 "SHORT-BARRELED SHOTGUN" HAS THE MEANING STATED IN § 4-201 OF THE
37 CRIMINAL LAW ARTICLE.

38 REVISOR'S NOTE: This subsection is new language derived without
39 substantive change from former Art. 27, § 481C(a)(3).

1 %This subsection is revised to conform to the definition of "short-barreled
 2 shotgun" in § 4-201 of the Criminal Law Article to avoid the possibility of
 3 unintended language variations if the definition in the Criminal Law
 4 Article is amended in the future. Former Art. 27, § 36F(e), from which CR
 5 § 4-201(g) was derived, and former Art. 27, § 481C(a)(3), from which this
 6 subsection is derived, were substantially identical provisions.

7 (E) SHOTGUN.

8 "SHOTGUN" HAS THE MEANING STATED IN § 4-201 OF THE CRIMINAL LAW
 9 ARTICLE.

10 REVISOR'S NOTE: This subsection is new language derived without
 11 substantive change from former Art. 27, § 481C(a)(5).

12 This subsection is revised to conform to the definition of "shotgun" in §
 13 4-201 of the Criminal Law Article to avoid the possibility of unintended
 14 language variations if the definition in the Criminal Law Article is
 15 amended in the future. Former Art. 27, § 36F(g), from which CR § 4-201(h)
 16 was derived, and former Art. 27, § 481C(a)(5), from which this subsection
 17 is derived, were identical provisions.

18 5-202. SCOPE OF SUBTITLE.

19 THIS SUBTITLE DOES NOT APPLY TO A SHORT-BARRELED RIFLE OR
 20 SHORT-BARRELED SHOTGUN THAT IS:

21 (1) AN ANTIQUE FIREARM AS DEFINED IN § 4-201 OF THE CRIMINAL LAW
 22 ARTICLE;

23 (2) A DEVICE DESIGNED OR REDESIGNED FOR USE OTHER THAN AS A
 24 WEAPON;

25 (3) A DEVICE DESIGNED OR REDESIGNED FOR USE AS A SIGNALING,
 26 PYROTECHNIC, LINE THROWING, SAFETY, OR SIMILAR DEVICE; OR

27 (4) A FIREARM THAT CANNOT:

28 (I) DISCHARGE A PROJECTILE BY AN EXPLOSIVE; AND

29 (II) BE READILY RESTORED TO A FIRING CONDITION.

30 REVISOR'S NOTE: This section is new language derived without substantive
 31 change from former Art. 27, § 481C(a)(6).

32 This section is revised as an exclusion of certain types of weapons from the
 33 scope of this subtitle rather than as parts of the definitions of
 34 "short-barreled rifle" and "short-barreled shotgun" for clarity.

35 In item (4)(i) of this section, the reference to a "projectile" is substituted for
 36 the former reference to a "shot" to conform to the terminology used in CR §

1 4-201. *See also* § 5-101(h) of this title.

2 Defined terms: "Short-barreled rifle" § 5-201

3 "Short-barreled shotgun" § 5-201

4 5-203. POSSESSION OF SHORT-BARRELED RIFLE OR SHORT-BARRELED SHOTGUN.

5 (A) PROHIBITED.

6 A PERSON MAY NOT POSSESS A SHORT-BARRELED RIFLE OR SHORT-BARRELED
7 SHOTGUN UNLESS:

8 (1) THE PERSON, WHILE ON OFFICIAL BUSINESS IS:

9 (I) A MEMBER OF THE LAW ENFORCEMENT PERSONNEL OF THE
10 FEDERAL GOVERNMENT, THE STATE, OR A POLITICAL SUBDIVISION OF THE STATE;

11 (II) A MEMBER OF THE ARMED FORCES OF THE UNITED STATES OR
12 THE NATIONAL GUARD WHILE ON DUTY OR TRAVELING TO OR FROM DUTY;

13 (III) A MEMBER OF THE LAW ENFORCEMENT PERSONNEL OF
14 ANOTHER STATE OR A POLITICAL SUBDIVISION OF ANOTHER STATE, WHILE
15 TEMPORARILY IN THIS STATE;

16 (IV) A WARDEN OR CORRECTIONAL OFFICER OF A CORRECTIONAL
17 FACILITY IN THE STATE; OR

18 (V) A SHERIFF OR A TEMPORARY OR FULL-TIME DEPUTY SHERIFF;
19 AND

20 (2) THE SHORT-BARRELED SHOTGUN OR SHORT-BARRELED RIFLE HAS
21 BEEN REGISTERED WITH THE FEDERAL GOVERNMENT IN ACCORDANCE WITH
22 FEDERAL LAW.

23 (B) BURDEN OF PROOF.

24 IN A PROSECUTION UNDER THIS SECTION, THE DEFENDANT HAS THE BURDEN
25 OF PROVING THE LAWFUL REGISTRATION OF THE SHORT-BARRELED SHOTGUN OR
26 SHORT-BARRELED RIFLE.

27 (C) PENALTY.

28 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
29 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE
30 NOT EXCEEDING \$5,000 OR BOTH.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 27, § 481C(b), (c), and (d).

33 In subsection (a)(1)(i) of this section, the reference to law enforcement
34 personnel of the "federal government" is substituted for the former

1 reference to law enforcement personnel of the "United States" to conform
2 to the terminology used elsewhere in this title. Similarly, in subsection
3 (a)(2) of this section, the reference to the "federal government" is
4 substituted for the former reference to the "United States government".

5 In subsection (a)(1)(iv) of this section, the reference to a "correctional
6 officer" is substituted for the former references to a "jailer", "prison guard",
7 "guard", and "keeper" for brevity and to conform to the terminology used in
8 CS § 8-201. Similarly, the reference to a "correctional facility" is
9 substituted for the former reference to a "penal, correctional, or detention
10 institution" for brevity and to conform to the terminology in CS § 1-101.

11 In subsection (a)(2) of this section, the reference to "federal law" is
12 substituted for the former reference to "United States statutes" for brevity.

13 Defined terms: "Person" § 1-101

14 "Short-barreled rifle" § 5-201

15 "Short-barreled shotgun" § 5-201

16 "State" § 1-101

17 5-204. PURCHASERS OF RIFLES OR SHOTGUNS.

18 (A) "ADJACENT STATE" DEFINED.

19 IN THIS SECTION, "ADJACENT STATE" MEANS DELAWARE, PENNSYLVANIA,
20 VIRGINIA, OR WEST VIRGINIA.

21 (B) RESIDENT OF THIS STATE IN ADJACENT STATE.

22 IF A RESIDENT OF THIS STATE IS ELIGIBLE TO PURCHASE A RIFLE OR SHOTGUN
23 UNDER THE LAWS OF AN ADJACENT STATE, THE RESIDENT MAY PURCHASE A RIFLE
24 OR SHOTGUN FROM A FEDERALLY LICENSED GUN DEALER IN THE ADJACENT STATE.

25 (C) RESIDENT OF ADJACENT STATE IN THIS STATE.

26 IF A RESIDENT OF AN ADJACENT STATE IS ELIGIBLE TO PURCHASE A RIFLE OR
27 SHOTGUN UNDER THE LAWS OF THIS STATE, THE RESIDENT MAY PURCHASE A RIFLE
28 OR SHOTGUN FROM A FEDERALLY LICENSED GUN DEALER IN THIS STATE.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 27, §§ 481A and 481B.

31 Subsection (a) of this section is revised as a definition of "adjacent state" to
32 allow concise reference to Delaware, Pennsylvania, Virginia, or West
33 Virginia.

34 In subsection (b) of this section, the defined term "adjacent state" is
35 substituted for the former phrase "adjoining state" for clarity and
36 consistency.

1 Defined terms: "Rifle" § 5-201

2 "Shotgun" § 5-201

3 5-205. POSSESSION BY PERSON WITH MENTAL DISORDER.

4 (A) PROHIBITED.

5 UNLESS THE PERSON POSSESSES A PHYSICIAN'S CERTIFICATE THAT THE
6 PERSON IS CAPABLE OF POSSESSING A RIFLE OR SHOTGUN WITHOUT UNDUE
7 DANGER TO THE PERSON OR TO ANOTHER, A PERSON MAY NOT POSSESS A RIFLE OR
8 SHOTGUN IF THE PERSON:

9 (1) SUFFERS FROM A MENTAL DISORDER AS DEFINED IN § 10-101(F)(2)
10 OF THE HEALTH - GENERAL ARTICLE AND HAS A HISTORY OF VIOLENT BEHAVIOR
11 AGAINST THE PERSON OR ANOTHER; OR

12 (2) HAS BEEN CONFINED FOR MORE THAN 30 CONSECUTIVE DAYS IN A
13 FACILITY AS DEFINED IN § 10-101 OF THE HEALTH - GENERAL ARTICLE.

14 (B) PENALTY.

15 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
16 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE
17 NOT EXCEEDING \$1,000 OR BOTH.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 27, § 481D.

20 Defined terms: "Person" § 1-101

21 "Rifle" § 5-201

22 "Shotgun" § 5-201

23 SUBTITLE 3. HANDGUN PERMITS.

24 5-301. DEFINITIONS.

25 (A) IN GENERAL.

26 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

27 REVISOR'S NOTE: This subsection is new language derived without
28 substantive change from former Art. 27, § 36F(a).

29 The reference to this "subtitle" is substituted for the former reference to
30 this "subheading" to reflect the reorganization of the former statutory
31 provisions on handgun permits in this subtitle.

32 (B) BOARD.

33 "BOARD" MEANS THE HANDGUN PERMIT REVIEW BOARD.

1 REVISOR'S NOTE: This subsection is new language added to avoid repetition
2 of the full title of the "Handgun Permit Review Board".

3 (C) HANDGUN.

4 "HANDGUN" HAS THE MEANING STATED IN § 4-201 OF THE CRIMINAL LAW
5 ARTICLE.

6 REVISOR'S NOTE: This subsection formerly was Art. 27, § 36F(b).

7 No changes are made.

8 (D) PERMIT.

9 "PERMIT" MEANS A PERMIT ISSUED BY THE SECRETARY TO CARRY, WEAR, OR
10 TRANSPORT A HANDGUN.

11 REVISOR'S NOTE: This subsection is new language added to provide a
12 convenient shorthand reference for the phrase "a permit issued by the
13 Secretary to carry, wear, or transport a handgun".

14 Defined terms: "Handgun" § 5-301

15 "Secretary" § 5-301

16 (E) SECRETARY.

17 "SECRETARY" MEANS THE SECRETARY OF STATE POLICE OR THE SECRETARY'S
18 DESIGNEE.

19 REVISOR'S NOTE: This subsection is new language derived without
20 substantive change from former Art. 27, § 36E(l).

21 The reference to "the Secretary's designee" is substituted for the former
22 reference to the Secretary "acting directly or through duly authorized
23 officers and agents of the Secretary" to conform to the terminology used
24 throughout this article.

25 The former phrase "[a]s used in this section" is deleted as unnecessary in
26 light of subsection (a) of this section.

27 5-302. HANDGUN PERMIT REVIEW BOARD.

28 (A) ESTABLISHED.

29 THERE IS A HANDGUN PERMIT REVIEW BOARD IN THE DEPARTMENT OF PUBLIC
30 SAFETY AND CORRECTIONAL SERVICES.

31 (B) MEMBERSHIP; APPOINTMENT.

32 THE BOARD CONSISTS OF FIVE MEMBERS APPOINTED FROM THE PUBLIC BY
33 THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

1 (C) TENURE; VACANCIES.

2 (1) THE TERM OF A MEMBER IS 3 YEARS.

3 (2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY
4 THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2003.

5 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
6 SUCCESSOR IS APPOINTED AND QUALIFIES.

7 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
8 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
9 QUALIFIES.

10 (5) A MEMBER OF THE BOARD IS ELIGIBLE FOR REAPPOINTMENT.

11 (D) COMPENSATION.

12 A MEMBER OF THE BOARD IS ENTITLED TO:

13 (1) COMPENSATION IN ACCORDANCE WITH THE STATE BUDGET FOR
14 EACH DAY THAT THE MEMBER ACTUALLY IS ENGAGED IN THE DISCHARGE OF THE
15 MEMBER'S OFFICIAL DUTIES; AND

16 (2) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE
17 TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 27, § 36E(i)(1).

20 In subsection (a) of this section, the former reference to the Board being a
21 "separate agency" is deleted as implicit in the reference to the Board being
22 created "in the Department of Public Safety and Correctional Services".

23 In subsection (c)(2) of this section, standard language is substituted for the
24 third and fourth sentences of former Art. 27, § 36E(i)(1), which provided for
25 the initial terms of the members appointed to the Board and were obsolete.
26 This substitution is not intended to alter the term of any member of the
27 Board. *See* § ____ of Ch. ____, Acts of 2003. The terms of the members
28 serving on October 1, 2003, end as follows: (1) one on March 27, 2004; (2)
29 three on March 27, 2005; and (3) one on March 27, 2006.

30 In subsection (c)(3) and (4) of this section, the requirement that a member
31 serves "until a successor is appointed and qualifies" is added for accuracy
32 and to conform to similar provisions in other revised articles of the Code.

33 In subsection (d)(1) of this section, the former reference to "per diem"
34 compensation is deleted in light of the reference to compensation for "each
35 day" the member is engaged in the discharge of official duties.

36 Subsection (d)(2) of this section is revised in standard language used to

1 describe the reimbursement for expenses of members of a board.

2 The Public Safety Article Review Committee notes, for consideration by the
3 General Assembly, that this section does not require any qualification
4 other than being a member of the public for appointment as a member of
5 the Board (*e.g.*, residency in the State for a certain minimum period, a
6 minimum age, registration as a voter, absence of a record of a conviction for
7 a crime of moral turpitude, etc.).

8 Defined term: "Board" § 5-301

9 5-303. PERMIT REQUIRED.

10 A PERSON SHALL HAVE A PERMIT ISSUED UNDER THIS SUBTITLE BEFORE THE
11 PERSON CARRIES, WEARS, OR TRANSPORTS A HANDGUN.

12 REVISOR'S NOTE: This section is new language added to state expressly that
13 which only was implied in the former law, *i.e.*, a person must have a permit
14 before the person carries, wears, or transports a handgun. It is based on
15 the references to a permit to carry a handgun in former Art. 27, § 36E.

16 Defined terms: "Handgun" § 5-301

17 "Permit" § 5-301

18 "Person" § 1-101

19 5-304. APPLICATION FOR PERMIT.

20 (A) OATH.

21 AN APPLICATION FOR A PERMIT SHALL BE MADE UNDER OATH.

22 (B) FEES -- IN GENERAL.

23 (1) SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, THE
24 SECRETARY MAY CHARGE A NONREFUNDABLE FEE PAYABLE WHEN AN APPLICATION
25 IS FILED FOR A PERMIT.

26 (2) THE FEE MAY NOT EXCEED:

27 (I) \$75 FOR AN INITIAL APPLICATION;

28 (II) \$50 FOR A RENEWAL OR SUBSEQUENT APPLICATION; AND

29 (III) \$10 FOR A DUPLICATE OR MODIFIED PERMIT.

30 (3) THE FEES UNDER THIS SUBSECTION ARE IN ADDITION TO THE FEES
31 AUTHORIZED UNDER § 5-305 OF THIS SUBTITLE.

32 (C) SAME -- REDUCTION.

1 THE SECRETARY MAY REDUCE THE FEE UNDER SUBSECTION (B) OF THIS
 2 SECTION ACCORDINGLY FOR A PERMIT THAT IS GRANTED FOR ONE DAY ONLY AND
 3 AT ONE PLACE ONLY.

4 (D) SAME -- EXCEPTIONS.

5 THE SECRETARY MAY NOT CHARGE A FEE UNDER SUBSECTION (B) OF THIS
 6 SECTION TO:

7 (1) A STATE, COUNTY, OR MUNICIPAL PUBLIC SAFETY EMPLOYEE WHO
 8 IS REQUIRED TO CARRY, WEAR, OR TRANSPORT A HANDGUN AS A CONDITION OF
 9 GOVERNMENTAL EMPLOYMENT; OR

10 (2) A RETIRED LAW ENFORCEMENT OFFICER OF THE STATE OR A
 11 COUNTY OR MUNICIPAL CORPORATION OF THE STATE.

12 (E) SAME -- METHOD OF PAYMENT.

13 THE APPLICANT MAY PAY A FEE UNDER THIS SECTION BY A PERSONAL CHECK,
 14 BUSINESS CHECK, CERTIFIED CHECK, OR MONEY ORDER.

15 REVISOR'S NOTE: This section is new language derived without substantive
 16 change from former Art. 27, § 36E(b), the second sentence of (e), and the
 17 reference to an application under oath in the introductory language of (a).

18 In subsection (c) of this section, the reference to a "fee under subsection (b)
 19 of this section" is substituted for the former reference to the "cost of the
 20 permit" for consistency with subsection (b) of this section.

21 In subsection (d)(1) of this section, the reference to a government employee
 22 who is required to "carry, wear, or transport" a handgun is substituted for
 23 the former reference to an employee required to "wear or carry" a handgun
 24 to conform to the terminology used in § 5-308 of this subtitle.

25 The Public Safety Article Review Committee notes, for the consideration of
 26 the General Assembly, that in subsection (c) of this section, which
 27 authorizes the Secretary to reduce the fee "accordingly" if the permit is
 28 granted "for one day only and at one place only", the word "accordingly"
 29 may be ambiguous. There is a lack of a clear statutory standard for
 30 determining whether to reduce the fee and the amount of any reduction.
 31 Ambiguity in the standard for the exercise of administrative discretion
 32 may constitute an invalid delegation of legislative authority.

33 Defined terms: "County" § 1-101

34 "Handgun" § 5-301

35 "Permit" § 5-301

36 "Secretary" § 5-301

1 5-305. CRIMINAL HISTORY RECORDS CHECK.

2 (A) "CENTRAL REPOSITORY" DEFINED.

3 IN THIS SECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE
4 INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC
5 SAFETY AND CORRECTIONAL SERVICES.

6 (B) APPLICATION REQUIRED.

7 THE SECRETARY SHALL APPLY TO THE CENTRAL REPOSITORY FOR A STATE
8 AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FOR EACH APPLICANT FOR A
9 PERMIT.

10 (C) CONTENTS OF APPLICATION.

11 AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE
12 SECRETARY SHALL SUBMIT TO THE CENTRAL REPOSITORY:

13 (1) TWO COMPLETE SETS OF THE APPLICANT'S LEGIBLE FINGERPRINTS
14 TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND
15 THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

16 (2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL
17 PROCEDURE ARTICLE FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS; AND

18 (3) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL
19 BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

20 (D) INFORMATION FORWARDED TO APPLICANT AND STATE POLICE.

21 IN ACCORDANCE WITH §§ 10-201 THROUGH 10-234 OF THE CRIMINAL
22 PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE
23 APPLICANT AND THE SECRETARY A PRINTED STATEMENT OF THE APPLICANT'S
24 CRIMINAL HISTORY RECORD INFORMATION.

25 (E) RESTRICTIONS ON INFORMATION.

26 INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS
27 SECTION:

28 (1) IS CONFIDENTIAL AND MAY NOT BE DISSEMINATED; AND

29 (2) SHALL BE USED ONLY FOR THE LICENSING PURPOSE AUTHORIZED
30 BY THIS SECTION.

31 (F) SUBJECT MAY CONTEST CONTENTS.

32 THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SECTION
33 MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY THE

1 CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE CRIMINAL PROCEDURE
2 ARTICLE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 27, § 36E(c).

5 In subsections (b), the introductory language of (c), and (d) of this section,
6 the defined term "Secretary" is substituted for the former reference to the
7 "Department of State Police" to conform to the terminology used in other
8 provisions dealing with handgun permits. *See, e.g.*, §§ 5-304 and 5-306 of
9 this subtitle.

10 In subsection (b) of this section, the reference to each applicant "for a
11 permit" is added for clarity.

12 Defined terms: "Permit" § 5-301

13 "Secretary" § 5-301

14 5-306. QUALIFICATIONS FOR PERMIT.

15 (A) IN GENERAL.

16 SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE SECRETARY SHALL ISSUE
17 A PERMIT WITHIN A REASONABLE TIME TO A PERSON WHO THE SECRETARY FINDS:

18 (1) IS AN ADULT;

19 (2) (I) HAS NOT BEEN CONVICTED OF A FELONY OR OF A
20 MISDEMEANOR FOR WHICH A SENTENCE OF IMPRISONMENT FOR MORE THAN 1
21 YEAR HAS BEEN IMPOSED; OR

22 (II) IF CONVICTED OF A CRIME DESCRIBED IN ITEM (I) OF THIS
23 ITEM, HAS BEEN PARDONED OR HAS BEEN GRANTED RELIEF UNDER 18 U.S.C. § 925(C);

24 (3) HAS NOT BEEN CONVICTED OF A CRIME INVOLVING THE
25 POSSESSION, USE, OR DISTRIBUTION OF A CONTROLLED DANGEROUS SUBSTANCE;

26 (4) IS NOT PRESENTLY AN ALCOHOLIC, ADDICT, OR HABITUAL USER OF
27 A CONTROLLED DANGEROUS SUBSTANCE UNLESS THE HABITUAL USE OF THE
28 CONTROLLED DANGEROUS SUBSTANCE IS UNDER LEGITIMATE MEDICAL DIRECTION;
29 AND

30 (5) BASED ON AN INVESTIGATION:

31 (I) HAS NOT EXHIBITED A PROPENSITY FOR VIOLENCE OR
32 INSTABILITY THAT MAY REASONABLY RENDER THE PERSON'S POSSESSION OF A
33 HANDGUN A DANGER TO THE PERSON OR TO ANOTHER; AND

34 (II) HAS GOOD AND SUBSTANTIAL REASON TO WEAR, CARRY, OR
35 TRANSPORT A HANDGUN, SUCH AS A FINDING THAT THE PERMIT IS NECESSARY AS A
36 REASONABLE PRECAUTION AGAINST APPREHENDED DANGER.

1 (B) APPLICANT UNDER AGE OF 30 YEARS.

2 AN APPLICANT UNDER THE AGE OF 30 YEARS IS QUALIFIED ONLY IF THE
3 SECRETARY FINDS THAT THE APPLICANT HAS NOT BEEN:

4 (1) COMMITTED TO A DETENTION, TRAINING, OR CORRECTIONAL
5 INSTITUTION FOR JUVENILES FOR LONGER THAN 1 YEAR AFTER AN ADJUDICATION
6 OF DELINQUENCY BY A JUVENILE COURT; OR

7 (2) ADJUDICATED DELINQUENT BY A JUVENILE COURT FOR:

8 (I) AN ACT THAT WOULD BE A CRIME OF VIOLENCE IF COMMITTED
9 BY AN ADULT;

10 (II) AN ACT THAT WOULD BE A FELONY IN THIS STATE IF
11 COMMITTED BY AN ADULT; OR

12 (III) AN ACT THAT WOULD BE A MISDEMEANOR IN THIS STATE THAT
13 CARRIES A STATUTORY PENALTY OF MORE THAN 2 YEARS IF COMMITTED BY AN
14 ADULT.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 27, § 36E(a)(1) through (6) and the first and third
17 clauses of the introductory language of (a).

18 In subsection (a)(1) of this section, the reference to an "adult" is
19 substituted for the former reference to a person "eighteen years of age or
20 older" for brevity in light of the definition of the term "adult" in Art. 1, § 24.

21 In the introductory language of subsection (a)(5) of this section, the former
22 reference to the "results" of an investigation is deleted as implicit in the
23 reference to an "investigation".

24 In subsection (a)(5)(i) of this section, the former reference to a
25 "law-abiding" person is deleted as unnecessarily narrowing the field of
26 persons to whom an applicant for a permit may not exhibit a propensity or
27 instability that may reasonably render handgun possession a danger.

28 In subsection (b)(2)(ii) and (iii) of this section, the reference to an
29 adjudication for an "act" that would be a crime "if committed by an adult"
30 is substituted for the former references to a "violation" classified as a
31 felony or a misdemeanor that carries a statutory penalty of 2 years, for
32 consistency with CJ §§ 3-801 and 3-804. Similarly, in subsection (b)(2)(i) of
33 this section, the reference to an "act" that would be a crime of violence "if
34 committed by an adult" is added.

35 The Public Safety Article Review Committee notes, for the consideration of
36 the General Assembly, that the qualifications for being issued a permit are
37 similar but not identical to the qualifications for being issued a regulated
38 firearms dealer's license (*see* § 5-107 of this title) and for obtaining

1 approval to purchase, rent, or transfer a regulated firearm (*see* § 5-118 of
2 this title). For example, under subsection (a)(4) of this section, an applicant
3 for a permit may not be an "alcoholic", but an applicant for a regulated
4 firearms dealer's license or for permission to purchase, rent, or transfer a
5 regulated firearm may not be a "habitual drunkard".

6 Defined terms: "Handgun" § 5-301

7 "Permit" § 5-301

8 "Person" § 1-101

9 "Secretary" § 5-301

10 5-307. SCOPE OF PERMIT.

11 (A) IN GENERAL.

12 A PERMIT IS VALID FOR EACH HANDGUN LEGALLY IN THE POSSESSION OF THE
13 PERSON TO WHOM THE PERMIT IS ISSUED.

14 (B) LIMITATIONS.

15 THE SECRETARY MAY LIMIT THE GEOGRAPHIC AREA, CIRCUMSTANCES, OR
16 TIMES OF THE DAY, WEEK, MONTH, OR YEAR IN WHICH A PERMIT IS EFFECTIVE.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from the first sentence of former Art. 27, § 36E(e) and the second
19 sentence of (f).

20 Defined terms: "Handgun" § 5-301

21 "Permit" § 5-301

22 "Person" § 1-101

23 "Secretary" § 5-301

24 5-308. POSSESSION OF PERMIT REQUIRED.

25 A PERSON TO WHOM A PERMIT IS ISSUED OR RENEWED SHALL CARRY THE
26 PERMIT IN THE PERSON'S POSSESSION WHENEVER THE PERSON CARRIES, WEARS,
27 OR TRANSPORTS A HANDGUN.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from the first sentence of former Art. 27, § 36E(f).

30 The Public Safety Article Review Committee notes, for the consideration of
31 the General Assembly, that this section on its face requires that a holder of
32 a permit carry the permit even under circumstances in which a person is
33 not required under CR § 4-203(b) to hold a permit (*e.g.*, wearing or
34 carrying a handgun within the confines of a person's residence or a
35 business establishment under certain circumstances, or transporting a
36 handgun under certain circumstances).

1 Defined terms: "Handgun" § 5-301

2 "Permit" § 5-301

3 "Person" § 1-101

4 5-309. TERM AND RENEWAL OF PERMIT.

5 (A) TERM OF PERMIT.

6 A PERMIT EXPIRES ON THE LAST DAY OF THE HOLDER'S BIRTH MONTH
7 FOLLOWING 2 YEARS AFTER THE DATE THE PERMIT IS ISSUED.

8 (B) RENEWAL OF PERMIT.

9 A PERMIT MAY BE RENEWED FOR SUCCESSIVE PERIODS OF 3 YEARS EACH IF, AT
10 THE TIME OF AN APPLICATION FOR RENEWAL, THE APPLICANT POSSESSES THE
11 QUALIFICATIONS FOR THE ISSUANCE OF A PERMIT AND PAYS THE RENEWAL FEE
12 STATED IN THIS SUBTITLE.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 27, § 36E(d).

15 Defined term: "Permit" § 5-301

16 5-310. REVOCATIONS.

17 (A) IN GENERAL.

18 THE SECRETARY MAY REVOKE A PERMIT ON A FINDING THAT THE HOLDER:

19 (1) DOES NOT MEET THE QUALIFICATIONS DESCRIBED IN § 5-306 OF
20 THIS SUBTITLE; OR

21 (2) VIOLATED § 5-308 OF THIS SUBTITLE.

22 (B) RETURN OF PERMIT.

23 A HOLDER OF A PERMIT THAT IS REVOKED BY THE SECRETARY SHALL RETURN
24 THE PERMIT TO THE SECRETARY WITHIN 10 DAYS AFTER RECEIPT OF WRITTEN
25 NOTICE OF THE REVOCATION.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from the first and second sentences of former Art. 27, § 36E(g).

28 In the introductory language of subsection (a) of this section, the former
29 reference to a permit that is "issued or renewed" is deleted as implicit in
30 light of the defined term "permit".

31 Also in the introductory language of subsection (a) of this section, the
32 former phrase "at any time" is deleted as surplusage.

33 In subsection (b) of this section, the reference to a "written" notice of the

1 revocation is added for clarity in light of § 5-311(a) of this subtitle, which
2 allows a person to file a request for an informal review within 10 days
3 after receipt of "written" notice of the Secretary's initial action.

4 Defined terms: "Permit" § 5-301

5 "Secretary" § 5-301

6 5-311. INFORMAL REVIEW OF SECRETARY'S ACTION.

7 (A) REQUEST FOR INFORMAL REVIEW.

8 A PERSON WHO IS DENIED A PERMIT OR RENEWAL OF A PERMIT OR WHOSE
9 PERMIT IS REVOKED OR LIMITED MAY REQUEST THE SECRETARY TO CONDUCT AN
10 INFORMAL REVIEW BY FILING A WRITTEN REQUEST WITHIN 10 DAYS AFTER RECEIPT
11 OF WRITTEN NOTICE OF THE SECRETARY'S INITIAL ACTION.

12 (B) PERSONAL INTERVIEW.

13 AN INFORMAL REVIEW:

14 (1) MAY INCLUDE A PERSONAL INTERVIEW OF THE PERSON WHO
15 REQUESTED THE INFORMAL REVIEW; AND

16 (2) IS NOT SUBJECT TO TITLE 10, SUBTITLE 2 OF THE STATE
17 GOVERNMENT ARTICLE.

18 (C) ACTION BY SECRETARY.

19 IN AN INFORMAL REVIEW, THE SECRETARY SHALL SUSTAIN, REVERSE, OR
20 MODIFY THE INITIAL ACTION TAKEN AND NOTIFY THE PERSON WHO REQUESTED
21 THE INFORMAL REVIEW OF THE DECISION IN WRITING WITHIN 30 DAYS AFTER
22 RECEIPT OF THE REQUEST FOR INFORMAL REVIEW.

23 (D) REQUEST FOR REVIEW BY BOARD.

24 A PERSON NEED NOT FILE A REQUEST FOR AN INFORMAL REVIEW UNDER THIS
25 SECTION BEFORE REQUESTING REVIEW UNDER § 5-312 OF THIS SUBTITLE.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, § 36E(h).

28 In subsections (b)(1) and (c) of this section, the references to a "person who
29 requested the informal review" is substituted for the former reference to an
30 "applicant" for clarity. Similarly, in subsection (d) of this section, the
31 reference to a "person" is substituted for the former reference to an
32 "applicant" to conform to the terminology used in this section.

33 In subsection (b)(2) of this section, the reference to "Title 10, Subtitle 2 of
34 the State Government Article", which governs contested administrative
35 hearings, is substituted for the former reference to the "Administrative
36 Procedure Act" for clarity and consistency with § 5-312(e) of this subtitle.

1 %In subsection (d) of this section, the reference to a person not needing to
2 "request ... an informal review ... before requesting review under § 5-312 of
3 this subtitle" is substituted for the former references to the "[i]nstitution of
4 proceedings under this section" and the "institution of proceedings under
5 subsection (h) of this section" for consistency with subsection (a) of this
6 section and § 5-312(a) of this subtitle.

7 Also in subsection (d) of this section, the former phrase "within the
8 discretion of the applicant" and the former reference to a "condition
9 precedent" are deleted as included in the reference that a person "need not"
10 take certain action.

11 Defined terms: "Permit" § 5-301

12 "Person" § 1-101

13 "Secretary" § 5-301

14 5-312. ACTION BY BOARD.

15 (A) REQUEST FOR REVIEW AUTHORIZED.

16 (1) A PERSON WHO IS DENIED A PERMIT OR RENEWAL OF A PERMIT OR
17 WHOSE PERMIT IS REVOKED OR LIMITED MAY REQUEST THE BOARD TO REVIEW THE
18 DECISION OF THE SECRETARY BY FILING A WRITTEN REQUEST WITH THE BOARD
19 WITHIN 10 DAYS AFTER RECEIPT OF WRITTEN NOTICE OF THE SECRETARY'S FINAL
20 ACTION.

21 (2) A PERSON WHOSE APPLICATION FOR A PERMIT OR RENEWAL OF A
22 PERMIT IS NOT ACTED ON BY THE SECRETARY WITHIN 90 DAYS AFTER SUBMITTING
23 THE APPLICATION TO THE SECRETARY MAY REQUEST A HEARING BEFORE THE
24 BOARD BY FILING A WRITTEN REQUEST WITH THE BOARD.

25 (B) FORM OF REVIEW.

26 WITHIN 90 DAYS AFTER RECEIVING A REQUEST TO REVIEW A DECISION OF THE
27 SECRETARY, THE BOARD SHALL:

28 (1) REVIEW THE RECORD DEVELOPED BY THE SECRETARY; OR

29 (2) CONDUCT A HEARING.

30 (C) EVIDENCE.

31 THE BOARD MAY RECEIVE AND CONSIDER ADDITIONAL EVIDENCE SUBMITTED
32 BY A PARTY IN CONDUCTING A REVIEW OF THE DECISION OF THE SECRETARY.

33 (D) DECISION BY BOARD.

34 (1) BASED ON THE BOARD'S CONSIDERATION OF THE RECORD AND ANY
35 ADDITIONAL EVIDENCE, THE BOARD SHALL SUSTAIN, REVERSE, OR MODIFY THE
36 DECISION OF THE SECRETARY.

1 (2) IF THE ACTION BY THE BOARD RESULTS IN THE DENIAL OF A PERMIT
2 OR RENEWAL OF A PERMIT OR THE REVOCATION OR LIMITATION OF A PERMIT, THE
3 BOARD SHALL SUBMIT IN WRITING TO THE APPLICANT OR THE HOLDER OF THE
4 PERMIT THE REASONS FOR THE ACTION TAKEN BY THE BOARD.

5 (E) ADMINISTRATIVE PROCEDURES.

6 (1) ANY HEARING AND ANY SUBSEQUENT PROCEEDINGS OF JUDICIAL
7 REVIEW SHALL BE CONDUCTED IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE
8 STATE GOVERNMENT ARTICLE.

9 (2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, A COURT
10 MAY NOT ORDER THE ISSUANCE OR RENEWAL OF A PERMIT OR ALTER A LIMITATION
11 ON A PERMIT PENDING A FINAL DETERMINATION OF THE PROCEEDING.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 27, § 36E(i)(2), (3), and (4).

14 In subsection (d)(2) of this section, the reference to an "applicant or the
15 holder of the permit" is substituted for the former reference to "that
16 person" for clarity.

17 In subsection (e)(2) of this section, the former reference to a court "of this
18 State" is deleted as implicit.

19 The Public Safety Article Review Committee notes, for the consideration of
20 the General Assembly, that in subsection (a)(2) of this section there is no
21 time period stated within which a written request for a hearing before the
22 Board must be made if the Secretary has not acted on an application for a
23 permit or renewal of a permit.

24 Defined terms: "Board" § 5-301

25 "Permit" § 5-301

26 "Person" § 1-101

27 "Secretary" § 5-301

28 5-313. FAILURE TO RETURN REVOKED PERMIT.

29 (A) PROHIBITED. ...

30 A PERSON MAY NOT FAIL TO RETURN A REVOKED PERMIT.

31 (B) PENALTY.

32 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
33 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE
34 OF NOT LESS THAN \$100 OR EXCEEDING \$1,000 OR BOTH.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from the third sentence of former Art. 27, § 36E(g).

1 %In subsection (a) of this section, the former phrase "in violation of this
2 subtitle" is deleted as implicit.

3 The Public Safety Article Review Committee notes, for the consideration of
4 the General Assembly, that in subsection (b) of this section it is not clear
5 whether the reference to a "fine of not less than \$100" is subject to
6 reduction under CR § 14-102 or is a true minimum penalty. The General
7 Assembly may wish to clarify this matter in substantive legislation.

8 Defined terms: "Permit" § 5-301

9 "Person" § 1-101

10 5-314. CARRYING, WEARING, OR TRANSPORTING HANDGUN WHILE UNDER
11 INFLUENCE OF ALCOHOL OR DRUGS.

12 (A) PROHIBITED.

13 A PERSON WHO HOLDS A PERMIT MAY NOT WEAR, CARRY, OR TRANSPORT A
14 HANDGUN WHILE THE PERSON IS UNDER THE INFLUENCE OF ALCOHOL OR DRUGS.

15 (B) PENALTY.

16 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
17 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE
18 NOT EXCEEDING \$1,000 OR BOTH.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former CR § 4-207.

21 In subsection (a) of this section, the reference to a person "who holds a
22 permit" is substituted for the former reference to a person "to whom a
23 permit has been issued or whose permit has been renewed under Article
24 27, § 36E of the Code" for clarity. Former Art. 27, § 36E is revised in this
25 subtitle.

26 Defined terms: "Handgun" § 5-301

27 "Permit" § 5-301

28 "Person" § 1-101

29 GENERAL REVISOR'S NOTE TO SUBTITLE:

30 Former Art. 27, § 36E(j) and (k), which provided that certain persons were
31 authorized to continue to wear, carry, or transport a handgun without a permit, are
32 deleted as obsolete in light of their limited effect of delaying the requirement of a
33 permit for those persons until "one year after March 27, 1972".

SUBTITLE 4. HANDGUN ROSTER.

1

2 5-401. DEFINITIONS.

3 (A) IN GENERAL.

4 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

5 REVISOR'S NOTE: This subsection is new language derived without
6 substantive change from former Art. 27, § 36F(a).7 The reference to this "subtitle" is substituted for the former reference to
8 this "subheading" to reflect the reorganization of the former statutory
9 provisions on the handgun roster in this subtitle.

10 (B) BOARD.

11 "BOARD" MEANS THE HANDGUN ROSTER BOARD.

12 REVISOR'S NOTE: This subsection formerly was Art. 27, § 36F(l).

13 No changes are made.

14 (C) HANDGUN.

15 "HANDGUN" HAS THE MEANING STATED IN § 4-201 OF THE CRIMINAL LAW
16 ARTICLE.

17 REVISOR'S NOTE: This subsection formerly was Art. 27, § 36F(b).

18 No changes are made.

19 (D) HANDGUN ROSTER.

20 "HANDGUN ROSTER" MEANS THE ROSTER OF AUTHORIZED HANDGUNS
21 COMPILED BY THE BOARD UNDER § 5-405 OF THIS SUBTITLE.22 REVISOR'S NOTE: This subsection is new language derived without
23 substantive change from former Art. 27, § 36F(h).24 The reference to "authorized" handguns is substituted for the former
25 reference to "permitted" handguns to avoid confusion with handguns that
26 require the issuance of a permit.

27 Defined terms: "Board" § 5-401

28 "Handgun" § 5-401

29 (E) SECRETARY.

30 "SECRETARY" MEANS THE SECRETARY OF STATE POLICE OR THE SECRETARY'S
31 DESIGNEE.

1 REVISOR'S NOTE: This subsection formerly was Art. 27, § 36F(j).

2 The only changes are in style.

3 5-402. APPLICATION OF SUBTITLE.

4 (A) MANUFACTURE AND SALE OF WEAPONS.

5 THIS SUBTITLE DOES NOT AFFECT A PERSON'S RIGHT TO:

6 (1) MANUFACTURE, SELL, OR OFFER TO SELL A RIFLE OR OTHER
7 WEAPON THAT IS NOT DEFINED AS A HANDGUN IN § 4-201 OF THE CRIMINAL LAW
8 ARTICLE;

9 (2) MANUFACTURE A PROTOTYPE HANDGUN MODEL REQUIRED FOR
10 DESIGN, DEVELOPMENT, TESTING, AND APPROVAL BY THE BOARD; AND

11 (3) MANUFACTURE IN THIS STATE A HANDGUN THAT IS NOT ON THE
12 HANDGUN ROSTER BY A FEDERALLY LICENSED GUN MANUFACTURER WHO IS ALSO
13 LICENSED AS A REGULATED FIREARMS DEALER IN THIS STATE FOR DIRECT SALE TO
14 A UNIT OF:

15 (I) THE FEDERAL GOVERNMENT;

16 (II) A STATE OTHER THAN THIS STATE;

17 (III) A LOCAL GOVERNMENT IN A STATE OTHER THAN THIS STATE;
18 OR

19 (IV) A LAW ENFORCEMENT AGENCY IN A STATE OTHER THAN THIS
20 STATE.

21 (B) STRICT LIABILITY.

22 (1) A PERSON IS NOT STRICTLY LIABLE FOR DAMAGES FOR INJURIES TO
23 ANOTHER THAT RESULT FROM THE CRIMINAL USE OF A FIREARM BY A THIRD
24 PERSON.

25 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY IF THE
26 PERSON CONSPIRED WITH THE THIRD PERSON TO COMMIT THE CRIMINAL ACT IN
27 WHICH THE FIREARM WAS USED OR WILLFULLY AIDED, ABETTED, OR CAUSED THE
28 COMMISSION OF THE CRIMINAL ACT IN WHICH THE FIREARM WAS USED.

29 (3) THIS SUBTITLE DOES NOT OTHERWISE NEGATE, LIMIT, OR MODIFY
30 THE DOCTRINE OF NEGLIGENCE OR STRICT LIABILITY THAT RELATES TO
31 ABNORMALLY DANGEROUS PRODUCTS OR ACTIVITIES AND DEFECTIVE PRODUCTS.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 27, § 36-I(f) and (h).

34 In the introductory language of subsection (a) of this section, the reference

1 to "[t]his subtitle" is substituted for the former reference to "this section"
2 even though this subtitle is derived, in part, from material outside of
3 former Art. 27, § 36-I. Because the material revised in this subtitle that
4 was not contained in former Art. 27, § 36-I does not affect the application
5 of this subtitle in a way contrary to the material set forth here, no
6 substantive change results.

7 In subsection (a) of this section, the statement that this subtitle "does not
8 affect a person's right to" manufacture certain weapons is substituted for
9 the former statement that "[n]othing in this section shall be construed to
10 interfere with ... a person's ability to" manufacture as a more precise
11 statement of the effect of this subtitle.

12 In subsection (b)(1) and (2) of this section, the former references to an
13 "entity" are deleted in light of the definition of "person".

14 In subsection (b)(1) of this section, the phrase "is not strictly liable" is
15 substituted for the former phrase "may not be held strictly liable" for
16 clarity.

17 Also in subsection (b)(1) of this section, the former reference to damages "of
18 any kind" is deleted as surplusage. Similarly, the former reference to
19 injuries "sustained" is deleted.

20 Defined terms: "Board" § 5-401

21 "Handgun" § 5-401

22 "Handgun roster" § 5-401

23 "Person" § 1-101

24 "State" § 1-101

25 5-403. REGULATIONS.

26 THE SECRETARY SHALL ADOPT REGULATIONS NECESSARY TO CARRY OUT THIS
27 SUBTITLE.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 27, § 36-I(e).

30 The former requirement to adopt regulations "[s]ubject to the provisions of
31 the Administrative Procedure Act" is deleted in light of SG § 10-102, which
32 extends the Administrative Procedure Act to the Secretary.

33 The former reference adopting "rules" is deleted in light of the reference to
34 adopting "regulations". See General Revisor's Note to article.

35 Defined term: "Secretary" § 5-401

36 5-404. HANDGUN ROSTER BOARD.

37 (A) ESTABLISHED.

1 THERE IS A HANDGUN ROSTER BOARD IN THE DEPARTMENT OF STATE POLICE.

2 (B) MEMBERSHIP; APPOINTMENT.

3 (1) THE BOARD CONSISTS OF 11 MEMBERS.

4 (2) OF THE 11 MEMBERS OF THE BOARD:

5 (I) ONE SHALL BE THE SECRETARY AS AN EX OFFICIO MEMBER;
6 AND

7 (II) TEN SHALL BE APPOINTED BY THE GOVERNOR WITH THE
8 ADVICE AND CONSENT OF THE SENATE.

9 (3) OF THE TEN APPOINTED MEMBERS OF THE BOARD:

10 (I) ONE SHALL BE A REPRESENTATIVE OF THE ASSOCIATION OF
11 CHIEFS OF POLICE;

12 (II) ONE SHALL BE A REPRESENTATIVE OF THE MARYLAND STATE'S
13 ATTORNEYS' ASSOCIATION;

14 (III) ONE SHALL BE A HANDGUN DEALER, GUNSMITH, OR
15 REPRESENTATIVE OF A HANDGUN MANUFACTURER;

16 (IV) ONE SHALL BE A RESIDENT OF THE STATE WHO IS A
17 REPRESENTATIVE OF THE NATIONAL RIFLE ASSOCIATION OR ITS AFFILIATED STATE
18 ASSOCIATION;

19 (V) ONE SHALL BE A REPRESENTATIVE OF THE MARYLANDERS
20 AGAINST HANDGUN ABUSE; AND

21 (VI) FIVE SHALL BE PUBLIC MEMBERS, TWO OF WHOM SHALL BE
22 MECHANICAL OR ELECTRICAL ENGINEERS.

23 (C) TENURE.

24 THE TERM OF AN APPOINTED MEMBER IS 4 YEARS.

25 (D) CHAIRMAN.

26 THE SECRETARY SHALL SERVE AS CHAIRMAN.

27 (E) MEETINGS.

28 THE BOARD SHALL MEET AT THE REQUEST OF THE CHAIRMAN OR OF A
29 MAJORITY OF THE MEMBERS.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 27, § 36J(a)(1) through (5).

1 %In subsection (b)(2)(i) of this section, the reference to the Secretary "as an
2 ex officio member" is added for clarity. As an ex officio member, the
3 Secretary is a member of the Board by virtue of the office of Secretary.
4 Thus the condition that a member be appointed by the Governor with the
5 advice and consent of the Senate does not apply to the Secretary.
6 Accordingly, in subsections (b)(3) and (c) of this section, the reference to
7 "appointed" members is added for clarity. Subsection (c) of this section does
8 not apply to the Secretary, who serves as long as the Secretary holds office.

9 In subsection (b)(3)(vi) of this section, the reference to "public" members is
10 substituted for the former reference to "citizen" members for clarity and to
11 conform to language used in provisions that establish other boards under
12 this article.

13 Defined terms: "Board" § 5-401

14 "Handgun" § 5-401

15 "Secretary" § 5-401

16 5-405. DUTIES AND PROCEDURES OF BOARD.

17 (A) ESTABLISHMENT AND PUBLICATION OF ROSTER.

18 THE BOARD SHALL:

19 (1) COMPILE AND MAINTAIN A HANDGUN ROSTER OF AUTHORIZED
20 HANDGUNS THAT ARE USEFUL FOR LEGITIMATE SPORTING, SELF-PROTECTION, OR
21 LAW ENFORCEMENT PURPOSES;

22 (2) SEMIANNUALLY PUBLISH THE HANDGUN ROSTER IN THE
23 MARYLAND REGISTER; AND

24 (3) SEMIANNUALLY SEND A COPY OF THE HANDGUN ROSTER TO ALL
25 PERSONS WHO HOLD A STATE REGULATED FIREARM DEALER'S LICENSE UNDER
26 SUBTITLE 1 OF THIS TITLE.

27 (B) CRITERIA FOR PLACEMENT ON ROSTER.

28 THE BOARD SHALL CONSIDER CAREFULLY EACH OF THE FOLLOWING
29 CHARACTERISTICS OF A HANDGUN WITHOUT PLACING UNDUE WEIGHT ON ANY ONE
30 CHARACTERISTIC IN DETERMINING WHETHER ANY HANDGUN SHOULD BE PLACED
31 ON THE HANDGUN ROSTER:

32 (1) CONCEALABILITY;

33 (2) BALLISTIC ACCURACY;

34 (3) WEIGHT;

35 (4) QUALITY OF MATERIALS;

36 (5) QUALITY OF MANUFACTURE;

1 (6) RELIABILITY AS TO SAFETY;

2 (7) CALIBER;

3 (8) DETECTABILITY BY THE STANDARD SECURITY EQUIPMENT THAT IS
4 COMMONLY USED AT AN AIRPORT OR COURTHOUSE AND THAT IS APPROVED BY THE
5 FEDERAL AVIATION ADMINISTRATION FOR USE AT AIRPORTS IN THE UNITED STATES;
6 AND

7 (9) UTILITY FOR LEGITIMATE SPORTING ACTIVITIES,
8 SELF-PROTECTION, OR LAW ENFORCEMENT.

9 (C) PLACEMENT PROCESS.

10 (1) THE BOARD MAY PLACE A HANDGUN ON THE HANDGUN ROSTER ON
11 ITS OWN INITIATIVE.

12 (2) THE BOARD SHALL PLACE A HANDGUN ON THE HANDGUN ROSTER
13 ON THE SUCCESSFUL PETITION OF ANY PERSON SUBJECT TO SUBSECTIONS (D) AND
14 (E) OF THIS SECTION, UNLESS A COURT, AFTER ALL APPEALS ARE EXHAUSTED, HAS
15 MADE A FINDING THAT THE DECISION OF THE BOARD SHALL BE AFFIRMED.

16 (3) A PETITION TO PLACE A HANDGUN ON THE HANDGUN ROSTER
17 SHALL BE SUBMITTED TO THE BOARD IN WRITING IN THE FORM AND MANNER THAT
18 THE BOARD REQUIRES.

19 (4) A PERSON WHO PETITIONS FOR PLACEMENT OF A HANDGUN ON THE
20 HANDGUN ROSTER HAS THE BURDEN OF PROVING TO THE BOARD THAT THE
21 HANDGUN SHOULD BE PLACED ON THE HANDGUN ROSTER.

22 (D) ACTION OF BOARD ON PETITION.

23 (1) WITHIN 45 DAYS AFTER RECEIPT OF A PETITION TO PLACE A
24 HANDGUN ON THE HANDGUN ROSTER, THE BOARD SHALL:

25 (I) DENY THE PETITION IN WRITING, STATING THE REASONS FOR
26 DENIAL; OR

27 (II) APPROVE THE PETITION AND PUBLISH A DESCRIPTION OF THE
28 HANDGUN IN THE MARYLAND REGISTER, INCLUDING NOTICE THAT ANY OBJECTION
29 TO THE HANDGUN'S INCLUSION ON THE HANDGUN ROSTER SHALL BE FILED WITH
30 THE BOARD WITHIN 30 DAYS.

31 (2) IF THE BOARD FAILS TO DENY OR APPROVE A PETITION WITHIN THE
32 TIME REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE PETITION SHALL
33 BE CONSIDERED DENIED.

34 (E) NOTICE OF DENIAL; HEARING; APPEAL.

1 (1) IF THE BOARD DENIES A PETITION TO PLACE A HANDGUN ON THE
2 HANDGUN ROSTER, THE BOARD SHALL NOTIFY THE PETITIONER BY CERTIFIED MAIL,
3 RETURN RECEIPT REQUESTED.

4 (2) THE PETITIONER MAY REQUEST A HEARING WITHIN 15 DAYS AFTER
5 THE DATE THAT THE BOARD'S DENIAL LETTER IS RECEIVED.

6 (3) (I) IF THE PETITIONER REQUESTS A HEARING UNDER PARAGRAPH
7 (2) OF THIS SUBSECTION, WITHIN A REASONABLE TIME NOT TO EXCEED 90 DAYS
8 AFTER RECEIVING THE REQUEST, THE BOARD SHALL:

9 1. HOLD A HEARING ON THE PETITION; AND

10 2. ISSUE A WRITTEN FINAL DECISION ON THE PETITION.

11 (II) THE BOARD SHALL PROVIDE NOTICE OF THE HEARING IN
12 ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

13 (III) AT A HEARING HELD UNDER THIS PARAGRAPH, THE
14 PETITIONER HAS THE BURDEN OF PROVING TO THE BOARD THAT THE HANDGUN
15 SHOULD BE PLACED ON THE HANDGUN ROSTER BECAUSE THE HANDGUN IS USEFUL
16 FOR LEGITIMATE SPORTING ACTIVITIES, SELF-PROTECTION, OR LAW ENFORCEMENT
17 PURPOSES.

18 (4) ANY PARTY OF RECORD WHO IS AGGRIEVED MAY APPEAL WITHIN 30
19 DAYS AFTER A FINAL DECISION OF THE BOARD IN ACCORDANCE WITH TITLE 10,
20 SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

21 (F) EFFECT OF SECTION.

22 THIS SECTION DOES NOT REQUIRE THE BOARD TO TEST ANY HANDGUN OR
23 HAVE ANY HANDGUN TESTED AT THE EXPENSE OF THE BOARD.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 27, § 36J(b) through (f).

26 In subsection (a)(1) of this section, the reference to "authorized" handguns
27 is substituted for the former reference to "permitted" handguns to avoid
28 confusion with handguns that require the issuance of a permit.

29 Also in subsection (a)(1) of this section, the former requirement to "publish
30 in the Maryland Register by July 1, 1989, and thereafter" is deleted as
31 obsolete and as surplusage in light of subsection (a)(2) of this section.

32 The Public Safety Article Review Committee notes, for consideration by the
33 General Assembly, that in subsection (c)(2) of this section, the meaning of
34 the clause "unless a court, after all appeals are exhausted, has made a
35 finding that the decision of the Board shall be affirmed" is unclear in light
36 of subsections (d) and (e) of this section, which provide appeals procedures
37 for a party who is aggrieved by the decision of the Board.

1 %In subsection (e)(3)(ii) and (4) of this section, the reference to "Title 10,
2 Subtitle 2 of the State Government Article" is substituted for the former
3 reference to the "Administrative Procedure Act" for clarity.

4 Defined terms: "Board" § 5-401

5 "Handgun" § 5-401

6 "Handgun roster" § 5-401

7 "Person" § 1-101

8 5-406. MANUFACTURE OR SALE OF HANDGUNS.

9 (A) PROHIBITIONS.

10 (1) EXCEPT AS PROVIDED IN § 5-402 OF THIS SUBTITLE, A PERSON MAY
11 NOT MANUFACTURE FOR DISTRIBUTION OR SALE A HANDGUN THAT IS NOT
12 INCLUDED ON THE HANDGUN ROSTER IN THE STATE.

13 (2) A PERSON MAY NOT SELL OR OFFER FOR SALE IN THE STATE A
14 HANDGUN MANUFACTURED AFTER JANUARY 1, 1985, THAT IS NOT INCLUDED ON THE
15 HANDGUN ROSTER.

16 (3) A PERSON MAY NOT MANUFACTURE, SELL, OR OFFER FOR SALE A
17 HANDGUN ON WHICH THE MANUFACTURER'S IDENTIFICATION MARK OR NUMBER IS
18 OBLITERATED, REMOVED, CHANGED, OR OTHERWISE ALTERED.

19 (B) INJUNCTION AUTHORIZED.

20 THE SECRETARY MAY SEEK AN ORDER FROM A CIRCUIT COURT TO
21 PERMANENTLY OR TEMPORARILY ENJOIN THE WILLFUL AND CONTINUOUS
22 MANUFACTURE, SALE, OR OFFER FOR SALE, IN VIOLATION OF THIS SECTION, OF A
23 HANDGUN THAT IS NOT INCLUDED ON THE HANDGUN ROSTER.

24 (C) PENALTIES.

25 (1) A PERSON WHO MANUFACTURES A HANDGUN FOR DISTRIBUTION OR
26 SALE IN VIOLATION OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON
27 CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$10,000 FOR EACH VIOLATION.

28 (2) A PERSON WHO SELLS OR OFFERS TO SELL A HANDGUN IN
29 VIOLATION OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS
30 SUBJECT TO A FINE NOT EXCEEDING \$2,500 FOR EACH VIOLATION.

31 (3) FOR PURPOSES OF THIS SUBSECTION, EACH HANDGUN
32 MANUFACTURED, SOLD, OR OFFERED FOR SALE IN VIOLATION OF THIS SUBSECTION
33 IS A SEPARATE VIOLATION.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 27, § 36-I(a), (b), (c), (d), and (g).

36 In subsection (c)(1) and (2) of this section, the reference to a person "on

1 conviction" being subject to a certain penalty is added to state expressly
2 that which only was implied in the former law, and for consistency with
3 other penalty provisions in this and other revised articles of the Code.

4 Defined terms: "Handgun" § 5-401

5 "Handgun roster" § 5-401

6 "Person" § 1-101

7 "Secretary" § 5-401

8 SUBTITLE 5. CEASE FIRE COUNCIL.

9 5-501. "COUNCIL" DEFINED.

10 IN THIS SUBTITLE, "COUNCIL" MEANS THE CEASE FIRE COUNCIL.

11 REVISOR'S NOTE: This section is new language added to avoid repetition of
12 the full title "Cease Fire Council".

13 5-502. CEASE FIRE COUNCIL.

14 (A) ESTABLISHED.

15 THERE IS A CEASE FIRE COUNCIL IN THE DEPARTMENT OF STATE POLICE.

16 (B) MEMBERSHIP; APPOINTMENT.

17 (1) THE COUNCIL CONSISTS OF 11 MEMBERS.

18 (2) OF THE 11 MEMBERS OF THE COUNCIL:

19 (I) ONE SHALL BE THE SECRETARY OF JUVENILE JUSTICE OR A
20 DESIGNEE;

21 (II) ONE SHALL BE THE SECRETARY OF STATE POLICE OR A
22 DESIGNEE;

23 (III) ONE SHALL BE THE SECRETARY OF PUBLIC SAFETY AND
24 CORRECTIONAL SERVICES OR A DESIGNEE;

25 (IV) ONE SHALL BE THE EXECUTIVE DIRECTOR OF THE
26 GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION OR A DESIGNEE;

27 (V) TWO SHALL BE STATE'S ATTORNEYS WHO ARE RECOMMENDED
28 BY THE PRESIDENT OF THE MARYLAND STATE'S ATTORNEYS' ASSOCIATION,
29 APPOINTED BY THE GOVERNOR;

30 (VI) ONE SHALL BE A SHERIFF, APPOINTED BY THE GOVERNOR;

31 (VII) ONE SHALL REPRESENT THE MARYLAND CHIEFS OF POLICE
32 ASSOCIATION, APPOINTED BY THE GOVERNOR;

1 (VIII) ONE SHALL REPRESENT THE MARYLAND MUNICIPAL POLICE
2 EXECUTIVES ASSOCIATION, APPOINTED BY THE GOVERNOR; AND

3 (IX) TWO SHALL REPRESENT THE PUBLIC, APPOINTED BY THE
4 GOVERNOR.

5 (C) TENURE; VACANCIES.

6 (1) THE APPOINTED MEMBERS SERVE AT THE PLEASURE OF THE
7 GOVERNOR.

8 (2) THE TERM OF AN APPOINTED MEMBER IS 3 YEARS.

9 (3) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS
10 REQUIRED BY THE TERMS PROVIDED FOR APPOINTED MEMBERS OF THE COUNCIL
11 ON OCTOBER 1, 2003.

12 (4) AT THE END OF A TERM, AN APPOINTED MEMBER CONTINUES TO
13 SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

14 (D) CHAIRMAN.

15 THE SECRETARY OF STATE POLICE OR THE SECRETARY'S DESIGNEE IS THE
16 CHAIRMAN OF THE COUNCIL.

17 (E) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

18 A MEMBER OF THE COUNCIL:

19 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COUNCIL;
20 BUT

21 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
22 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

23 (F) STAFF; LEGAL ADVISOR.

24 (1) THE DEPARTMENT OF STATE POLICE SHALL PROVIDE STAFF
25 SUPPORT FOR THE COUNCIL.

26 (2) THE ASSISTANT ATTORNEY GENERAL ASSIGNED TO THE
27 DEPARTMENT OF STATE POLICE IS THE LEGAL ADVISOR TO THE COUNCIL.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 88B, § 81(a)(1), (2), and (5).

30 In subsection (b)(1) of this section, the former reference to members being
31 "appointed by the Governor" is deleted in light of the references to
32 members being "appointed by the Governor" in subsection (b)(2)(v) through
33 (ix) of this section. The former general reference was misleading with
34 respect to the ex officio members because they serve on the Council by

1 virtue of their positions.

2 Throughout subsection (c) of this section, the references to "appointed"
3 members are added for clarity in light of the fact that subsection (c) of this
4 section does not apply to ex officio members (*i.e.*, those listed in subsection
5 (b)(2)(i) through (iv) of this section) who serve on the Council as long as
6 they hold office.

7 In subsection (c)(3) of this section, the reference to the staggering of terms
8 "as required by the terms provided for appointed members of the Council
9 on October 1, 2003" is standard language added to clarify a stagger
10 provision. This addition is not intended to alter the term of any member of
11 the Council. *See* § ____ of Ch. ____, Acts of 2003. The terms of the appointed
12 members serving on October 1, 2003, end as follows: (1) two on September
13 30, 2004; (2) two on September 30, 2005; and (3) three on September 30,
14 2006.

15 Subsection (e) of this section is revised in standard language used to
16 describe the compensation and reimbursement of expenses of a member of
17 a board or commission.

18 Defined term: "Council" § 5-501

19 5-503. PURPOSE AND DUTIES.

20 (A) PURPOSE.

21 THE PURPOSE OF THE COUNCIL IS TO ADMINISTER THE CEASE FIRE COUNCIL
22 GRANT PROGRAM TO SUPPORT INNOVATIVE AND COLLABORATIVE FIREARMS
23 VIOLENCE REDUCTION INITIATIVES.

24 (B) DUTIES.

25 THE COUNCIL SHALL:

26 (1) MAKE GRANTS IN ACCORDANCE WITH § 5-504 OF THIS SUBTITLE;

27 (2) ESTABLISH OR ASSIST IN THE ESTABLISHMENT OF PROGRAMS
28 DESIGNED TO REDUCE THE INCIDENCE OF FIREARMS VIOLENCE RELATED CRIME
29 AND ENCOURAGE PARTICIPATION IN EXISTING PROGRAMS WITH THESE
30 OBJECTIVES;

31 (3) IDENTIFY SPECIFIC GOALS, OBJECTIVES, AND METHODOLOGIES TO
32 BE USED IN SUPPORT OF PROGRAMS ELIGIBLE FOR FUNDING UNDER THIS SUBTITLE;

33 (4) IDENTIFY PRIORITIES FOR FIREARMS VIOLENCE RELATED CRIME
34 PREVENTION STRATEGIES IN THE STATE; AND

35 (5) DEVELOP CRITERIA TO EVALUATE THE OUTCOMES OF PROGRAMS
36 THAT RECEIVE MONEY UNDER THIS SUBTITLE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 88B, § 81(a)(3) and (4).

3 In subsection (a) of this section, the reference to the "Cease Fire Council
4 Grant Program" is substituted for the former vague reference to a "State
5 Grant Program" to conform to the terminology used in § 5-504 of this
6 subtitle.

7 Defined term: "Council" § 5-501

8 5-504. CEASE FIRE COUNCIL GRANT PROGRAM.

9 (A) ESTABLISHED.

10 THERE IS A CEASE FIRE COUNCIL GRANT PROGRAM.

11 (B) FUNDING.

12 THE CEASE FIRE COUNCIL GRANT PROGRAM SHALL BE FUNDED AS PROVIDED
13 IN THE STATE BUDGET.

14 (C) GRANTS.

15 GRANTS MADE BY THE COUNCIL SHALL BE USED TO CARRY OUT THE PURPOSES
16 OF THIS SUBTITLE.

17 (D) CONSIDERATIONS IN MAKING GRANTS.

18 WHEN MAKING GRANTS, THE COUNCIL SHALL CONSIDER AND GIVE PRIORITY
19 TO:

20 (1) COMPREHENSIVE AND COORDINATED LAW ENFORCEMENT AND
21 PROSECUTION PROGRAMS THAT TARGET CRIMINALS AND JUVENILES WHO USE OR
22 ILLEGALLY POSSESS FIREARMS;

23 (2) LAW ENFORCEMENT AND PROSECUTION SALARIES AND OVERTIME
24 IN SUPPORT OF FIREARM VIOLENCE REDUCTION PROGRAMS;

25 (3) COVERT FIREARMS-RELATED INVESTIGATIONS AND DEBRIEFING OF
26 CRIMINAL AND JUVENILE ARRESTEES AND OFFENDERS FOR INFORMATION RELATED
27 TO ILLEGAL FIREARMS TRAFFICKING;

28 (4) INITIATIVES THAT SUPPORT THE TRACING OF FIREARMS USED TO
29 COMMIT CRIMES OR DELINQUENT ACTS AND THE IDENTIFICATION OF ILLEGAL
30 FIREARMS TRAFFICKERS;

31 (5) PURCHASES OF TECHNOLOGY AND INFORMATION SYSTEMS TO
32 SUPPORT FIREARM VIOLENCE REDUCTION INITIATIVES; AND

1 (6) OTHER EFFORTS THAT AID IN APPREHENDING AND PROSECUTING
2 CRIMINALS OR APPREHENDING AND FILING A COMPLAINT AGAINST JUVENILES WHO
3 USE OR ILLEGALLY POSSESS FIREARMS.

4 (E) EXPENDITURES FROM PROGRAM.

5 EXPENDITURES FROM THE CEASE FIRE COUNCIL GRANT PROGRAM MAY BE
6 MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET OR BY BUDGET
7 AMENDMENT.

8 (F) REGULATIONS.

9 THE COUNCIL SHALL ADOPT REGULATIONS FOR THE GRANT PROCESS AND THE
10 OVERSIGHT OF GRANTS MADE BY THE COUNCIL.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 88B, § 81(b).

13 In subsection (c) of this section, the reference to grants "made" by the
14 Council is substituted for the former reference to grants "approved" by the
15 Council for consistency throughout this subtitle. Similarly, in subsection (f)
16 of this section, the reference to grants "made" is substituted for the former
17 reference to grants "awarded".

18 Also in subsection (c) of this section, the former reference to the
19 "objectives" of this section, now this subtitle, is deleted as included in the
20 reference to the "purposes" of this subtitle.

21 In the introductory language of subsection (d) of this section, the reference
22 to "grants" is substituted for the former reference to "Program awards" for
23 consistency throughout this subtitle.

24 In subsection (d)(6) of this section, the reference to "filing a complaint
25 against" juveniles is added to conform to the terminology used in the
26 Juvenile Justice System.

27 In subsection (e) of this section, the phrase "in accordance with the State
28 budget" is substituted for the former phrase "pursuant to an appropriation
29 in the annual State budget" for brevity and consistency with language used
30 throughout this article.

31 Defined term: "Council" § 5-501

32 TITLE 6. STATE FIRE PREVENTION COMMISSION AND STATE FIRE MARSHAL.

33 SUBTITLE 1. DEFINITIONS.

34 6-101. DEFINITIONS.

35 (A) IN GENERAL.

1 IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

2 REVISOR'S NOTE: This subsection is new language used as the standard
3 introductory language to a definition section.

4 (B) COMMISSION.

5 "COMMISSION" MEANS THE STATE FIRE PREVENTION COMMISSION.

6 REVISOR'S NOTE: This subsection is new language added to avoid repetition
7 of the full title "State Fire Prevention Commission".

8 (C) DEPARTMENT.

9 "DEPARTMENT" MEANS THE DEPARTMENT OF STATE POLICE.

10 REVISOR'S NOTE: This subsection is new language added to avoid repetition
11 of the full title "Department of State Police".

12 (D) SECRETARY.

13 "SECRETARY" MEANS THE SECRETARY OF STATE POLICE.

14 REVISOR'S NOTE: This subsection is new language added to avoid repetition
15 of the full title "Secretary of State Police".

16 SUBTITLE 2. STATE FIRE PREVENTION COMMISSION.

17 6-201. ESTABLISHED.

18 THERE IS A STATE FIRE PREVENTION COMMISSION IN THE DEPARTMENT.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from the second sentence and, as it related to the creation of the
21 State Fire Prevention Commission, the first sentence of former Art. 38A, §
22 1(a).

23 It is set forth as a separate section for emphasis.

24 Defined term: "Department" § 6-101

25 6-202. MEMBERSHIP.

26 (A) COMPOSITION; APPOINTMENT OF MEMBERS.

27 (1) THE COMMISSION CONSISTS OF NINE MEMBERS.

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

29 (I) ONE SHALL BE A MEMBER OF A CAREER FIRE COMPANY;

- 1 (II) THREE SHALL BE MEMBERS OF VOLUNTEER FIRE COMPANIES;
- 2 (III) ONE SHALL BE AN ARCHITECT OR ENGINEER;
- 3 (IV) ONE SHALL BE A BUILDING CONTRACTOR;
- 4 (V) TWO SHALL BE REPRESENTATIVES OF INDUSTRY; AND
- 5 (VI) ONE SHALL BE A MEMBER OF THE PUBLIC.
- 6 (3) OF THE NINE MEMBERS OF THE COMMISSION:
- 7 (I) ONE SHALL RESIDE IN WESTERN MARYLAND, WHICH IS THE
8 REGION THAT CONSISTS OF ALLEGANY, CARROLL, FREDERICK, GARRETT, AND
9 WASHINGTON COUNTIES;
- 10 (II) ONE SHALL RESIDE IN CENTRAL MARYLAND, WHICH IS THE
11 REGION THAT CONSISTS OF BALTIMORE, HARFORD, AND HOWARD COUNTIES;
- 12 (III) ONE SHALL RESIDE IN SOUTHERN MARYLAND, WHICH IS THE
13 REGION THAT CONSISTS OF ANNE ARUNDEL, CALVERT, CHARLES, AND ST. MARY'S
14 COUNTIES;
- 15 (IV) ONE SHALL RESIDE IN THE WASHINGTON METROPOLITAN
16 AREA, WHICH IS THE REGION THAT CONSISTS OF MONTGOMERY AND PRINCE
17 GEORGE'S COUNTIES;
- 18 (V) ONE SHALL RESIDE ON THE EASTERN SHORE, WHICH IS THE
19 REGION THAT CONSISTS OF CAROLINE, CECIL, DORCHESTER, KENT, QUEEN ANNE'S,
20 SOMERSET, TALBOT, WICOMICO, AND WORCESTER COUNTIES; AND
- 21 (VI) FOUR SHALL REPRESENT THE STATE AT LARGE.
- 22 (4) THE SECRETARY SHALL APPOINT THE MEMBERS WITH THE
23 APPROVAL OF THE GOVERNOR.
- 24 (B) QUALIFICATIONS.
- 25 EACH MEMBER SHALL HAVE EXPERIENCE AND TRAINING TO DEAL WITH THE
26 MATTERS THAT ARE THE RESPONSIBILITIES OF THE COMMISSION.
- 27 (C) TENURE; VACANCIES.
- 28 (1) THE TERM OF A MEMBER IS 5 YEARS.
- 29 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE
30 TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON OCTOBER 1, 2003.
- 31 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
32 SUCCESSOR IS APPOINTED AND QUALIFIES.

1 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
2 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
3 QUALIFIES.

4 (5) A MEMBER MAY NOT SERVE MORE THAN 2 TERMS.

5 (D) REMOVAL.

6 WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY MAY REMOVE A
7 MEMBER FOR NEGLECT OF DUTY OR OTHER SUFFICIENT CAUSE.

8 REVISOR'S NOTE: Subsections (a), (b), (c)(1), (4), and (5), and (d) of this section
9 are new language derived without substantive change from the fourth
10 through ninth sentences and, except as it related to the creation of the
11 State Fire Commission, the first sentence of former Art. 38A, § 1(a).

12 Subsection (c)(2) of this section is standard language substituted for the
13 third sentence of former Art. 38A, § 1(a), which provided for the terms of
14 the initial members and is obsolete.

15 Subsection (c)(3) and the clause "until a successor is appointed and
16 qualifies" in subsection (c)(4) of this section are standard language added
17 to avoid gaps in membership by indicating that a member serves until a
18 successor takes office.

19 In subsection (a)(2)(i) of this section, the reference to a "career" fire
20 company is substituted for the former reference to a "paid" fire company
21 for consistency with terminology used throughout this article.

22 In subsection (a)(2)(vi) of this section, the reference to the "public" is
23 substituted for the former phrase "general public interest" for consistency
24 with terminology used throughout this article.

25 In subsection (d) of this section, the phrase "other sufficient cause" is
26 substituted for the former phrase "other cause which in the opinion of the
27 Secretary makes his [the member's] continued membership unwise in the
28 public interest" for brevity.

29 Also in subsection (d) of this section, the former phrase "at any time" is
30 deleted as surplusage.

31 Defined terms: "Commission" § 6-101

32 "Secretary" § 6-101

33 6-203. OFFICERS.

34 (A) IN GENERAL.

35 THE COMMISSION SHALL ELECT A CHAIRMAN AND VICE CHAIRMAN FROM
36 AMONG ITS MEMBERS.

1 (B) ABSENCE OF CHAIRMAN.

2 IF THE CHAIRMAN IS ABSENT, THE VICE CHAIRMAN SHALL EXERCISE THE
3 POWERS AND PERFORM THE DUTIES OF THE CHAIRMAN.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from the second sentence and the first clause of the first sentence
6 of former Art. 38A, § 2(a).

7 In subsection (b) of this section, the reference to "perform[ing]" the duties
8 of the chairman is added for consistency with terminology used throughout
9 the revised articles of the Code.

10 Defined term: "Commission" § 6-101

11 6-204. QUORUM; MEETINGS; COMPENSATION.

12 (A) QUORUM.

13 (1) A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE
14 COMMISSION IS A QUORUM.

15 (2) THE COMMISSION MAY NOT DO BUSINESS UNLESS:

16 (I) THERE IS A QUORUM; AND

17 (II) EITHER THE CHAIRMAN OR VICE CHAIRMAN IS PRESENT.

18 (B) MEETINGS.

19 THE COMMISSION SHALL MEET:

20 (1) AT LEAST ONCE EVERY 2 MONTHS; AND

21 (2) WHEN CALLED BY THE CHAIRMAN OR THE SECRETARY.

22 (C) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

23 A MEMBER OF THE COMMISSION:

24 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE
25 COMMISSION; BUT

26 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
27 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 38A, §§ 1(b) and 2(b) and the second clause of the
30 first sentence of (a).

31 In subsection (a) of this section, the former provision that called for a

1 quorum of "5 members" of the Commission is restated, without
2 substantive change, in more general language that refers to a "majority of
3 the authorized membership of the Commission". This restatement
4 conforms to similar provisions in other revised articles of the Code and will
5 accommodate possible future legislative changes in the number of
6 members to be appointed to the Commission, without the necessity of
7 enacting a conforming change here.

8 In subsection (b) of this section, the former specific references to "regular"
9 and "special" meetings are deleted as unnecessary.

10 Subsection (c) of this section is revised to conform to other similar
11 provisions in the Code and reflects that, under SF § 10-203, the Board of
12 Public Works has adopted regulations for reimbursement of expenses. *See*
13 COMAR 23.02.01.01 through 12.

14 In subsection (c)(1) of this section, the phrase "as a member of the
15 Commission" is added to clarify that the prohibition on receipt of
16 compensation is only applicable to a member of the Commission in the
17 capacity of that individual as a member.

18 Defined terms: "Commission" § 6-101

19 "Secretary" § 6-101

20 6-205. MISCELLANEOUS POWERS AND DUTIES.

21 (A) AUTHORITY OVER STATE FIRE MARSHAL.

22 THE COMMISSION MAY MAKE RECOMMENDATIONS TO THE SECRETARY ABOUT
23 THE DAILY OPERATIONS OF THE OFFICE OF STATE FIRE MARSHAL, INCLUDING
24 RECOMMENDATIONS ABOUT BUDGET AND PERSONNEL MATTERS, BUT THE
25 COMMISSION DOES NOT HAVE DIRECT LINE AUTHORITY OVER THE ADMINISTRATION
26 OF THE OFFICE OF STATE FIRE MARSHAL.

27 (B) SUBPOENAS; OATHS.

28 THE COMMISSION MAY ISSUE SUBPOENAS AND ADMINISTER OATHS IN
29 CONNECTION WITH ANY PUBLIC HEARING HELD UNDER THIS TITLE.

30 (C) ANNUAL REPORT.

31 ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, THE COMMISSION SHALL
32 TRANSMIT TO THE GOVERNOR AND THE SECRETARY AN ANNUAL REPORT OF THE
33 COMMISSION'S ACTIVITIES.

34 (D) ANNUAL SEMINARS.

35 AT LEAST ONCE EACH YEAR, THE COMMISSION SHALL PROMOTE AND CONDUCT
36 SEMINARS, CONFERENCES, WORKSHOPS, AND MEETINGS TO INFORM THE PUBLIC
37 AND FIRE FIGHTING PERSONNEL OF THE LATEST TECHNIQUES IN:

- 1 (1) FIRE PREVENTION PROGRAMS AND PROCEDURES;
- 2 (2) LIFE SAFETY MEASURES;
- 3 (3) CHANGES IN THE STATE FIRE PREVENTION CODE; AND
- 4 (4) DEVELOPMENT OF IMPROVED FIRE SAFETY GOALS.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 38A, §§ 5, 6, 6A, and 2(d).

7 In subsection (b) of this section, the authority of the Commission to issue
8 subpoenas and administer oaths is restated for clarity to conform with
9 language used in other revised articles of the Code.

10 Also in subsection (b) of this section, the reference to a public hearing held
11 under this "title" is substituted for the former reference to a public hearing
12 under this "article" to indicate that the provisions of former Article 38A
13 that related to the Commission are revised in Title 6 of this article. No
14 substantive change is intended.

15 Defined terms: "Commission" § 6-101

16 "Secretary" § 6-101

17 6-206. REGULATIONS.

18 (A) STATE FIRE PREVENTION CODE.

19 (1) (I) TO PROTECT LIFE AND PROPERTY FROM THE HAZARDS OF FIRE
20 AND EXPLOSION, THE COMMISSION SHALL ADOPT COMPREHENSIVE REGULATIONS
21 AS A STATE FIRE PREVENTION CODE.

22 (II) THE STATE FIRE PREVENTION CODE SHALL COMPLY WITH
23 STANDARD SAFE PRACTICE AS EMBODIED IN WIDELY RECOGNIZED STANDARDS OF
24 GOOD PRACTICE FOR FIRE PREVENTION AND FIRE PROTECTION.

25 (III) THE STATE FIRE PREVENTION CODE HAS THE FORCE AND
26 EFFECT OF LAW IN THE POLITICAL SUBDIVISIONS OF THE STATE.

27 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
28 PARAGRAPH, THE REGULATIONS ADOPTED UNDER THIS SUBSECTION DO NOT APPLY
29 TO EXISTING INSTALLATIONS, PLANTS, OR EQUIPMENT.

30 (II) IF THE COMMISSION DETERMINES THAT AN INSTALLATION,
31 PLANT, OR EQUIPMENT IS A HAZARD SO INIMICABLE TO THE PUBLIC SAFETY AS TO
32 REQUIRE CORRECTION, THE REGULATIONS ADOPTED UNDER THIS SUBSECTION
33 APPLY TO THE INSTALLATION, PLANT, OR EQUIPMENT.

34 (B) FEE SCHEDULE.

1 (1) THE COMMISSION SHALL ADOPT REGULATIONS TO ESTABLISH AND
2 ADMINISTER A FEE SCHEDULE FOR:

3 (I) REVIEWING BUILDING PLANS TO ENSURE COMPLIANCE WITH
4 THE STATE FIRE PREVENTION CODE; AND

5 (II) CONDUCTING INSPECTIONS IN ACCORDANCE WITH SUBTITLE 3
6 OF THIS TITLE.

7 (2) THE COMMISSION SHALL REVIEW THE FEE SCHEDULE ANNUALLY
8 TO ENSURE THAT THE MONEY COLLECTED AT LEAST COVERS THE COSTS OF
9 ADMINISTERING PLAN REVIEW AND CONDUCTING INSPECTIONS.

10 (3) THIS SUBSECTION DOES NOT LIMIT THE AUTHORITY OF A LOCAL
11 AUTHORITY TO ESTABLISH A FEE SCHEDULE FOR PLAN REVIEW AND INSPECTIONS
12 CONDUCTED BY THE LOCAL AUTHORITY.

13 (C) HEARINGS.

14 (1) BEFORE ADOPTING A REGULATION, THE COMMISSION SHALL HOLD
15 AT LEAST ONE PUBLIC HEARING ON THE PROPOSED REGULATION.

16 (2) (I) THE COMMISSION SHALL PUBLISH NOTICE OF THE HEARING AT
17 LEAST 15 DAYS BEFORE THE HEARING IN A NEWSPAPER OF GENERAL CIRCULATION
18 IN THE STATE.

19 (II) AT THE SAME TIME, THE COMMISSION SHALL SEND A COPY OF
20 THE NOTICE TO EACH PERSON WHO HAS FILED A REQUEST FOR NOTIFICATION WITH
21 THE COMMISSION.

22 (III) THE NOTICE SHALL CONTAIN THE TIME, PLACE, AND SUBJECT
23 OF THE HEARING AND THE PLACE AND TIMES TO EXAMINE THE PROPOSED
24 REGULATION.

25 (D) MORE STRINGENT LAW GOVERNS.

26 (1) THE STATE FIRE PREVENTION CODE ESTABLISHES THE MINIMUM
27 REQUIREMENTS TO PROTECT LIFE AND PROPERTY FROM THE HAZARDS OF FIRE AND
28 EXPLOSION.

29 (2) IF A STATE OR LOCAL LAW OR REGULATION IS MORE STRINGENT
30 THAN THE STATE FIRE PREVENTION CODE, THE MORE STRINGENT LAW OR
31 REGULATION GOVERNS IF THE MORE STRINGENT LAW OR REGULATION IS:

32 (I) NOT INCONSISTENT WITH THE STATE FIRE PREVENTION CODE;
33 AND

34 (II) NOT CONTRARY TO RECOGNIZED STANDARDS AND GOOD
35 ENGINEERING PRACTICES.

1 (3) IF THERE IS A QUESTION WHETHER A STATE OR LOCAL LAW OR
2 REGULATION GOVERNS, THE DECISION OF THE COMMISSION DETERMINES:

3 (I) WHICH LAW OR REGULATION GOVERNS; AND

4 (II) WHETHER STATE AND LOCAL OFFICIALS HAVE COMPLIED
5 WITH THE STATE FIRE PREVENTION CODE.

6 (E) COPIES OF STATE FIRE PREVENTION CODE.

7 THE COMMISSION SHALL MAKE AVAILABLE FOR PUBLIC INFORMATION A COPY
8 OF THE STATE FIRE PREVENTION CODE, AND ANY AMENDMENTS TO THE STATE FIRE
9 PREVENTION CODE, IN EACH COUNTY COURTHOUSE IN THE STATE.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 38A, §§ 3(a), (b), (c), (d), and (e) and 4(b).

12 Subsection (a)(1)(i) of this section is revised to require the Commission to
13 adopt regulations as a State Fire Prevention Code. Consequently, the
14 former power of the Commission to "promulgate, amend, and repeal"
15 regulations is deleted as included in the requirement to "adopt" them. Also,
16 the former requirement to promulgate regulations "by September 1, 1964"
17 is deleted as obsolete.

18 In subsections (a)(1)(i) and (d)(1) of this section, the words "[t]o protect" are
19 substituted for the former reference to "safeguarding" for clarity.

20 In subsection (a)(1)(iii) of this section, the former references to the "several
21 counties" and "cities" are deleted as included in the general reference to
22 the "political subdivisions of the State".

23 In subsection (c)(1) of this section, the reference to "adopting a regulation"
24 is substituted for the former reference to "promulgation, amendment, or
25 repeal of any additional regulation" for consistency with terminology used
26 throughout the revised articles of the Code. *See* Title 10, Subtitle 1 of the
27 State Government Article. Consequently, the former references to the
28 "amendment" and "repeal" of a regulation are deleted as included in the
29 concept of "adopting" regulations. *See* SG § 10-101(g). Similarly, in
30 subsection (c)(2)(iii) of this section, the former references to the
31 "amendment" or "repealer" are deleted.

32 Also in subsection (c)(1) of this section, the former phrase "to be separately
33 submitted" is deleted as implicit in the requirement to hold a hearing on
34 the proposed regulation.

35 Subsection (c)(2)(i) and (ii) of this section is revised in the active voice to
36 clarify that the Commission is responsible for publishing and sending
37 notice of hearings on proposed regulations.

38 In subsection (c)(2)(ii) of this section, the former words "firm" and

1 "corporation" are deleted as included in the defined term "person". *See* §
2 1-101 of this article.

3 In subsection (d)(1), (2), and (3)(ii) of this section, the reference to the
4 "State Fire Prevention Code" is substituted for the former references to the
5 "regulations promulgated under this chapter", "regulations promulgated
6 under this article", and "State fire regulations", respectively, for clarity,
7 consistency, and accuracy.

8 In subsection (d)(1) of this section, the former reference to the
9 "interpretation and application" of the regulations is deleted as implicit in
10 the statement that the State Fire Prevention Code establishes the
11 minimum requirements to protect life and property.

12 In subsection (d)(2) of this section, the former reference to "impos[ing]
13 higher standards" is deleted as included in the reference to the regulation
14 being "more stringent".

15 Former Art. 38A, § 4(a), which required the State Fire Prevention
16 Commission to hold public hearings before the adoption of the State Fire
17 Prevention Code in 1964, is deleted as obsolete.

18 Defined terms: "Commission" § 6-101

19 "Person" § 1-101

20 6-207. AUTHORITY OF SECRETARY.

21 THE EXERCISE OF ALL POWERS AND AUTHORITY AND THE PERFORMANCE OF
22 ALL DUTIES AND FUNCTIONS VESTED IN THE COMMISSION UNDER THIS ARTICLE
23 ARE SUBJECT TO THE POWERS AND AUTHORITY OF THE SECRETARY SET FORTH IN
24 TITLE 2 OF THIS ARTICLE OR ELSEWHERE IN STATE LAW.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 38A, § 2(c), as it related to the Commission.

27 The reference to the powers and duties of the Commission under "this
28 article" is retained in the revision although the Public Safety Article
29 includes provisions derived from articles other than former Article 38A. No
30 substantive change results because the powers and duties of the
31 Commission under the Public Safety Article are the same as the powers
32 and duties of the Commission under former Article 38A.

33 The reference to "Title 2 of this article" is substituted for the former
34 reference to "Article 88B of this Code" for specificity because most of the
35 provisions from former Article 88B that related to the power of the
36 Secretary of State Police are revised in Title 2 of this article. In addition,
37 the use of the phrase "or elsewhere in State law" picks up any other powers
38 of the Secretary wherever codified.

1 Defined terms: "Commission" § 6-101

2 "Secretary" § 6-101

3

SUBTITLE 3. STATE FIRE MARSHAL.

4 6-301. OFFICE ESTABLISHED.

5 THERE IS AN OFFICE OF STATE FIRE MARSHAL IN THE DEPARTMENT.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 38A, § 7(a)(1).

8 This section is revised in standard language used for the creation of a unit
9 of State government.

10 Defined term: "Department" § 6-101

11 6-302. STATE FIRE MARSHAL.

12 (A) APPOINTMENT.

13 THE SECRETARY SHALL APPOINT A STATE FIRE MARSHAL FROM A LIST OF
14 THREE NAMES SUBMITTED BY THE COMMISSION.

15 (B) QUALIFICATIONS.

16 THE STATE FIRE MARSHAL SHALL:

17 (1) BE A GRADUATE OF AN ACCREDITED COLLEGE OR UNIVERSITY; AND

18 (2) HAVE 5 YEARS OF RECENT PROGRESSIVELY RESPONSIBLE
19 EXPERIENCE, AT LEAST 3 YEARS OF WHICH SHALL HAVE BEEN AT THE
20 ADMINISTRATIVE LEVEL, IN FIRE PREVENTION INSPECTION, FIRE INVESTIGATION,
21 FIRE SAFETY PROMOTION, FIRE PROTECTION ENGINEERING, FIRE FIGHTING, OR
22 TEACHING FIRE SAFETY ENGINEERING.

23 (C) TERM.

24 THE STATE FIRE MARSHAL SERVES FOR A TERM OF 6 YEARS.

25 (D) EXECUTIVE SERVICE.

26 THE STATE FIRE MARSHAL IS IN THE EXECUTIVE SERVICE OF THE STATE
27 PERSONNEL MANAGEMENT SYSTEM.

28 (E) REMOVAL.

29 (1) AT ANY TIME, THE SECRETARY MAY REMOVE THE STATE FIRE
30 MARSHAL FOR NEGLECT OF DUTY OR OTHER CONDUCT UNBECOMING THE OFFICE.

1 (2) THE COMMISSION MAY RECOMMEND TO THE SECRETARY THAT THE
2 STATE FIRE MARSHAL BE REMOVED FOR CAUSE.

3 (3) (I) BEFORE REMOVING THE STATE FIRE MARSHAL, THE
4 SECRETARY SHALL GIVE THE STATE FIRE MARSHAL:

5 1. TIMELY NOTICE WITH A STATEMENT OF THE CHARGES;
6 AND

7 2. AN OPPORTUNITY FOR A PUBLIC HEARING ON THE
8 CHARGES.

9 (II) THE STATE FIRE MARSHAL MAY BE REPRESENTED AT THE
10 HEARING BY COUNSEL.

11 (F) SALARY.

12 THE STATE FIRE MARSHAL IS ENTITLED TO THE SALARY PROVIDED IN THE
13 STATE BUDGET.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 38A, § 7(a)(2).

16 In subsection (e)(3)(i)2 of this section, the former reference to an
17 opportunity for a public hearing "in person" is deleted as implicit.

18 Defined terms: "Commission" § 6-101

19 "Secretary" § 6-101

20 6-303. STAFF.

21 (A) IN GENERAL.

22 THE STATE FIRE MARSHAL MAY EMPLOY A STAFF IN ACCORDANCE WITH THE
23 STATE BUDGET.

24 (B) DEPUTY STATE FIRE MARSHALS.

25 (1) THE FULL TIME INVESTIGATIVE AND INSPECTION ASSISTANTS IN
26 THE OFFICE SHALL BE KNOWN AS DEPUTY STATE FIRE MARSHALS.

27 (2) DEPUTY STATE FIRE MARSHALS SHALL MEET THE MINIMUM
28 QUALIFICATIONS AND COMPLETE THE TRAINING REQUIRED BY THE POLICE
29 TRAINING COMMISSION FOR A POLICE OFFICER.

30 (3) THE QUALIFICATION AND TRAINING REQUIREMENTS OF
31 PARAGRAPH (2) OF THIS SUBSECTION DO NOT APPLY TO THE FIRE INSPECTORS AND
32 FIRE INVESTIGATORS OF THE POLITICAL SUBDIVISIONS OF THE STATE.

33 (C) CIVILIAN EMPLOYEES.

1 (1) THE STATE FIRE MARSHAL MAY DESIGNATE CIVILIAN EMPLOYEES
2 TO CONDUCT INSPECTIONS AND SUBMIT REPORTS AS NECESSARY.

3 (2) THE MINIMUM QUALIFICATIONS FOR A CIVILIAN EMPLOYEE SHALL
4 BE COMPLETION OF THE NATIONAL FIRE PROTECTION ASSOCIATION STANDARD 1031.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 38A, § 7(d).

7 In subsection (a) of this section, the reference to the "State" budget is
8 added for clarity.

9 Also in subsection (a) of this section, the reference to a "staff" is
10 substituted for the former specific reference to "assistants, consultants,
11 and employees" for brevity and consistency with similar provisions in other
12 revised articles of the Code. *See, e.g.*, BOP §§ 5-204(e)(1) and 14-204(d),
13 BR § 2-103(b)(1), and CS § 2-106(a).

14 Also in subsection (a) of this section, the former phrase "from time to time"
15 is deleted as surplusage.

16 In subsection (b)(3) of this section, the former reference to "local" political
17 subdivisions is deleted as implicit.

18 6-304. ASSISTANT AND SPECIAL ASSISTANT STATE FIRE MARSHALS.

19 (A) ASSISTANT STATE FIRE MARSHALS -- IN GENERAL.

20 (1) A COUNTY OR MUNICIPAL CORPORATION OF THE STATE MAY
21 DESIGNATE A FIRE MARSHAL OR APPROPRIATE FIRE OFFICIAL TO SERVE AS
22 ASSISTANT STATE FIRE MARSHAL TO CARRY OUT THIS TITLE, INCLUDING ISSUING
23 ORDERS, IN THAT COUNTY OR MUNICIPAL CORPORATION.

24 (2) AN ASSISTANT STATE FIRE MARSHAL MAY NOT RECEIVE
25 COMPENSATION FROM THE STATE.

26 (3) THE STATE FIRE MARSHAL SHALL CARRY OUT THIS TITLE IN A
27 COUNTY OR MUNICIPAL CORPORATION THAT HAS NOT DESIGNATED AN ASSISTANT
28 STATE FIRE MARSHAL.

29 (B) SAME -- MINIMUM QUALIFICATIONS.

30 (1) AN ASSISTANT STATE FIRE MARSHAL SHALL HAVE AT LEAST
31 COMPLETED NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) STANDARD 1031 -
32 FIRE INSPECTOR I, OR THE EQUIVALENT, AS DETERMINED BY THE STATE FIRE
33 MARSHAL.

34 (2) THE STATE FIRE MARSHAL MAY ADMINISTER AN EXAMINATION
35 BASED ON NFPA STANDARD 1031 BEFORE DESIGNATING AN INDIVIDUAL AS AN
36 ASSISTANT STATE FIRE MARSHAL.

1 (C) SPECIAL ASSISTANT STATE FIRE MARSHALS.

2 (1) THE STATE FIRE MARSHAL MAY DESIGNATE AS A SPECIAL
3 ASSISTANT STATE FIRE MARSHAL:

4 (I) A LAW ENFORCEMENT OFFICER INVOLVED IN ARSON
5 INVESTIGATIONS;

6 (II) ANY OTHER SUITABLE INDIVIDUAL WHO MEETS THE
7 STANDARDS ESTABLISHED UNDER THIS SECTION; OR

8 (III) ON THE ADVICE OF AN ASSISTANT STATE FIRE MARSHAL, A
9 MEMBER OF A FIRE DEPARTMENT IF:

10 1. THE DESIGNEE IS A FULL-TIME EMPLOYEE OF THE FIRE
11 DEPARTMENT;

12 2. THE DESIGNEE PERFORMS FIRE INSPECTIONS OR FIRE
13 INVESTIGATIONS FOR THE FIRE DEPARTMENT; AND

14 3. THE FIRE DEPARTMENT IS ORGANIZED AND OPERATES IN
15 THE STATE.

16 (2) A SPECIAL ASSISTANT STATE FIRE MARSHAL SERVES AT THE
17 PLEASURE OF THE STATE FIRE MARSHAL.

18 (3) A SPECIAL ASSISTANT STATE FIRE MARSHAL MAY NOT RECEIVE
19 COMPENSATION FROM THE STATE.

20 (4) EACH SPECIAL ASSISTANT STATE FIRE MARSHAL SHALL ASSIST THE
21 STATE FIRE MARSHAL IN CARRYING OUT THE DUTIES OF THE STATE FIRE MARSHAL
22 UNDER THIS TITLE.

23 (D) REMOVAL.

24 THE COMMISSION MAY REMOVE AN ASSISTANT OR SPECIAL ASSISTANT STATE
25 FIRE MARSHAL FOR JUST CAUSE BY A MAJORITY DECISION:

26 (1) ON THE RECOMMENDATION OF THE STATE FIRE MARSHAL; AND

27 (2) AFTER AN ADMINISTRATIVE HEARING.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 38A, § 7(c)(2) and (1)(i), (iii), and the first and
30 third sentences of (ii).

31 In subsections (a)(1) and (3) and (c)(4) of this section, the references to
32 carrying out this "title" are substituted for the former references to this
33 "article" to reflect that the provisions of former Article 38A that related to
34 the State Fire Marshal are revised in this title. No substantive change is
35 intended.

- 1 %In subsection (a)(1) and (3) of this section, the former reference to an
2 assistant State fire marshal being "legally" designated is deleted as
3 surplusage.
- 4 In subsection (a)(2) of this section, the reference to receiving compensation
5 "from the State" is added for clarity.
- 6 In subsection (a)(3) of this section, the reference to an "assistant State" fire
7 marshal is added for clarity and consistency with subsection (a)(1) of this
8 section.
- 9 In subsection (c)(1)(ii) of this section, the reference to the standards
10 established under "this section" is substituted for the former reference to
11 the standards established under "this article" for specificity and accuracy.
- 12 The second sentence of former Art. 38A, § 7(c)(1)(ii), which exempted fire
13 marshals serving as of July 1, 1985 from certain minimum standards, is
14 transferred to the Session Laws because of its diminishing applicability.

15 Defined terms: "Commission" § 6-101

16 "County" § 1-101

17 6-305. GENERAL POWERS AND DUTIES OF STATE FIRE MARSHAL.

18 (A) ENFORCEMENT OF LAWS AND REGULATIONS.

19 THE STATE FIRE MARSHAL SHALL ENFORCE:

20 (1) ALL LAWS OF THE STATE THAT RELATE TO:

21 (I) THE PREVENTION OF FIRE;

22 (II) THE STORAGE, SALE, AND USE OF EXPLOSIVES,
23 COMBUSTIBLES, OR OTHER DANGEROUS ARTICLES, IN SOLID, LIQUID, OR GASEOUS
24 FORM;

25 (III) THE INSTALLATION AND MAINTENANCE OF ALL KINDS OF
26 EQUIPMENT INTENDED TO CONTROL, DETECT, OR EXTINGUISH FIRE;

27 (IV) THE MEANS AND ADEQUACY OF EXIT, IN CASE OF FIRE, FROM
28 BUILDINGS AND ALL OTHER PLACES IN WHICH INDIVIDUALS WORK, LIVE, OR
29 CONGREGATE, EXCEPT BUILDINGS THAT ARE USED SOLELY AS DWELLING HOUSES
30 FOR NO MORE THAN TWO FAMILIES; AND

31 (V) THE SUPPRESSION OF ARSON; AND

32 (2) THE REGULATIONS ADOPTED BY THE COMMISSION UNDER
33 SUBTITLE 2 OF THIS TITLE.

34 (B) IMPLEMENTATION OF FIRE SAFETY PROGRAMS.

1 BY DELEGATION OF AUTHORITY VESTED IN THE COMMISSION AND WITHIN
2 POLICY ESTABLISHED BY THE COMMISSION, THE STATE FIRE MARSHAL SHALL
3 IMPLEMENT FIRE SAFETY PROGRAMS IN THE STATE TO MINIMIZE FIRE HAZARDS
4 AND DISASTERS AND LOSS OF LIFE AND PROPERTY FROM THESE CAUSES,
5 INCLUDING:

6 (1) THE ESTABLISHMENT AND ENFORCEMENT OF FIRE SAFETY
7 PRACTICES THROUGHOUT THE STATE;

8 (2) PREVENTIVE INSPECTION AND CORRECTION ACTIVITIES;

9 (3) COORDINATION OF FIRE SAFETY PROGRAMS WITH VOLUNTEER AND
10 CAREER FIRE COMPANIES AND OTHER STATE AGENCIES AND POLITICAL
11 SUBDIVISIONS EXERCISING ENFORCEMENT ASPECTS; AND

12 (4) CRITICAL ANALYSIS AND EVALUATION OF STATE FIRE LOSS
13 STATISTICS TO DETERMINE PROBLEMS AND SOLUTIONS.

14 (C) ASSISTANCE IN FIRE PREVENTION MATTERS.

15 ON REQUEST, THE STATE FIRE MARSHAL SHALL ASSIST IN FIRE PREVENTION
16 MATTERS:

17 (1) A CHIEF OF A FIRE COMPANY OR DEPARTMENT;

18 (2) A LEGALLY DESIGNATED FIRE MARSHAL OF A COUNTY OR
19 MUNICIPAL CORPORATION; OR

20 (3) A UNIT OR AGENCY OF THE STATE OR A COUNTY OR MUNICIPAL
21 CORPORATION.

22 (D) FIRE SAFETY AND EMERGENCY EVACUATION PROCEDURES FOR STATE
23 PROPERTY.

24 (1) THE STATE FIRE MARSHAL, ASSISTANT STATE FIRE MARSHALS, AND
25 SPECIAL ASSISTANT STATE FIRE MARSHALS SHALL DEVELOP FOR EACH PROPERTY
26 OWNED OR LEASED BY THE STATE:

27 (I) FIRE SAFETY PROCEDURES, INCLUDING FIRE DRILLS AT LEAST
28 QUARTERLY; AND

29 (II) EMERGENCY EVACUATION PROCEDURES.

30 (2) INFORMATION ABOUT FIRE SAFETY AND EMERGENCY EVACUATION
31 PROCEDURES SHALL BE AVAILABLE TO ALL STATE EMPLOYEES ON REQUEST.

32 (3) THE STATE FIRE MARSHAL SHALL REQUIRE THE STATE UNIT
33 EXERCISING CONTROL OVER THE PROPERTY OWNED OR LEASED BY THE STATE TO
34 KEEP RECORDS OF FIRE DRILLS OR OTHER EXERCISES THAT RELATE TO FIRE
35 SAFETY AND EMERGENCY EVACUATION PROCEDURES CONDUCTED IN THE
36 PROPERTY.

1 (E) ISSUANCE OF PERMITS AND LICENSES.

2 THE STATE FIRE MARSHAL MAY ISSUE PERMITS AND LICENSES AS REQUIRED
3 UNDER THIS ARTICLE.

4 (F) DISPOSAL OF HAZARDOUS DEVICES AND SUBSTANCES.

5 ON REQUEST, THE STATE FIRE MARSHAL MAY ASSIST POLICE AND FIRE
6 AUTHORITIES TO DISPOSE OF HAZARDOUS DEVICES AND SUBSTANCES.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 38A, §§ 7(b), 8(a), (b), (c), (k), and (n), and the
9 second sentence of § 33.

10 In subsection (a)(1)(iv) of this section, the word "solely" is substituted for
11 the former word "wholly" as a better word choice.

12 Also in subsection (a)(1)(iv) of this section, the former phrases "from time
13 to time" and "for any purpose", which modified "live, work, or congregate",
14 are deleted as surplusage.

15 In subsection (b)(3) of this section, the reference to "career" fire companies
16 is substituted for the former reference to "paid" fire companies for
17 consistency with terminology used throughout this article.

18 In subsection (c)(1) of this section, the former reference to a "recognized"
19 fire company or department is deleted as surplusage.

20 In the introductory language of subsection (d)(1) of this section, the
21 reference to "special assistant State fire marshals" is substituted for the
22 former reference to "special deputy fire marshals" for accuracy.

23 In subsection (d)(1)(ii) of this section, the former phrase "in case of an
24 emergency", which modified "emergency evacuation procedures", is deleted
25 as redundant.

26 In subsection (e) of this section, the reference to licenses and permits
27 issued under "this article" is retained in the revision although the Public
28 Safety Article includes provisions from articles other than former Article
29 38A. No substantive change results because the powers of the State Fire
30 Marshal are the same under this article as under former Article 38A.

31 Defined terms: "Commission" § 6-101

32 "County" § 1-101

33 6-306. CRIMINAL HISTORY RECORDS CHECK OF FIREFIGHTERS, RESCUE SQUAD
34 MEMBERS, AND PARAMEDICS.

35 (A) REQUEST FOR CRIMINAL HISTORY RECORDS CHECK.

1 (1) SUBJECT TO TITLE 10, SUBTITLE 2 OF THE CRIMINAL PROCEDURE
2 ARTICLE, A FIRE DEPARTMENT OR RESCUE SQUAD OF THE STATE OR A POLITICAL
3 SUBDIVISION OF THE STATE, A VOLUNTEER FIRE COMPANY OR RESCUE SQUAD, OR
4 AN AMBULANCE SERVICE LICENSED UNDER § 13-515 OF THE EDUCATION ARTICLE
5 MAY REQUEST THE STATE FIRE MARSHAL OR OTHER AUTHORIZED AGENCY THAT
6 HAS ACCESS TO THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL
7 REPOSITORY IN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL
8 SERVICES TO CONDUCT AN INITIAL CRIMINAL HISTORY RECORDS CHECK ON AN
9 APPLICANT FOR EMPLOYMENT OR APPOINTMENT AS A VOLUNTEER OR CAREER
10 FIREFIGHTER, RESCUE SQUAD MEMBER, OR PARAMEDIC.

11 (2) THE REQUEST SHALL BE MADE ON THE FORM REQUIRED BY THE
12 STATE FIRE MARSHAL.

13 (B) APPLICANT TO PROVIDE FINGERPRINTS.

14 (1) AN APPLICANT FOR EMPLOYMENT OR APPOINTMENT AS A
15 VOLUNTEER OR CAREER FIREFIGHTER, RESCUE SQUAD MEMBER, OR PARAMEDIC
16 SHALL PROVIDE A CLASSIFIABLE SET OF FINGERPRINTS IN ACCORDANCE WITH
17 PARAGRAPHS (2) AND (3) OF THIS SUBSECTION:

18 (I) FOR SUBMISSION TO THE CRIMINAL JUSTICE INFORMATION
19 SYSTEM CENTRAL REPOSITORY FOR A CRIMINAL HISTORY RECORDS CHECK; AND

20 (II) FOR FORWARDING TO THE FEDERAL BUREAU OF
21 INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

22 (2) THE APPLICANT SHALL PROVIDE THE FINGERPRINTS ON A FORM
23 APPROVED BY THE DIRECTOR OF THE CRIMINAL JUSTICE INFORMATION SYSTEM
24 CENTRAL REPOSITORY.

25 (3) (I) ON REQUEST OF THE STATE FIRE MARSHAL OR AN
26 APPROPRIATE AUTHORITY DESIGNATED BY RULE OF THE STATE FIRE MARSHAL, THE
27 APPLICANT SHALL PROVIDE THE FINGERPRINTS TO THE STATE FIRE MARSHAL OR
28 THE DESIGNATED AUTHORITY.

29 (II) IN A JURISDICTION THAT HAS DESIGNATED AN ASSISTANT
30 STATE FIRE MARSHAL, ON REQUEST OF THE ASSISTANT STATE FIRE MARSHAL AN
31 APPLICANT IN THE JURISDICTION SHALL PROVIDE THE FINGERPRINTS TO THE
32 ASSISTANT STATE FIRE MARSHAL.

33 (C) CONVICTION AND ARREST RECORDS.

34 A FIRE DEPARTMENT OR RESCUE SQUAD OPERATED BY THE STATE OR A
35 POLITICAL SUBDIVISION OF THE STATE OR A VOLUNTEER FIRE COMPANY OR
36 RESCUE SQUAD MAY OBTAIN CONVICTION AND ARREST RECORDS PRODUCED BY A
37 CRIMINAL HISTORY RECORDS CHECK BASED ON A CLASSIFIABLE SET OF
38 FINGERPRINTS.

39 (D) CONSIDERATION OF CONVICTION.

1 A VOLUNTEER OR CAREER FIRE COMPANY OR RESCUE SQUAD MAY CONSIDER
2 THE EXISTENCE OF A CRIMINAL CONVICTION IN DETERMINING WHETHER TO
3 EMPLOY OR APPOINT AN APPLICANT.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 38A, § 7A.

6 In subsection (a)(1) of this section, the reference to a "career firefighter" is
7 substituted for the former reference to a "paid fire fighter" for consistency
8 with terminology used throughout this article. Similarly, in subsection (d)
9 of this section, the reference to a "career" fire company is substituted for
10 the former reference to a "paid" fire company.

11 In subsection (b)(3)(ii) of this section, the reference to an "assistant State
12 fire marshal" is substituted for the former reference to a "deputy State fire
13 marshal" for consistency with § 6-304 of this subtitle.

14 6-307. INSPECTIONS.

15 (A) DUTY TO INSPECT PUBLIC BUILDINGS.

16 (1) THE STATE FIRE MARSHAL SHALL INSPECT FOR FIRE EXITS AND
17 REASONABLE SAFETY STANDARDS:

18 (I) ALL INSTITUTIONS OWNED BY THE STATE OR A COUNTY OR
19 MUNICIPAL CORPORATION; AND

20 (II) ALL SCHOOLS, THEATERS, CHURCHES, AND OTHER PLACES OF
21 PUBLIC ASSEMBLY.

22 (2) THE STATE FIRE MARSHAL SHALL REPORT THE FINDINGS OF AN
23 INSPECTION AND ANY RECOMMENDATIONS TO THE INDIVIDUAL IN CHARGE OF THE
24 INSTITUTION OR OTHER PLACE THAT WAS INSPECTED.

25 (B) AUTHORITY TO CONDUCT INSPECTIONS AS NECESSARY.

26 (1) THIS SUBSECTION DOES NOT APPLY TO A BUILDING OR PREMISES
27 ACTUALLY OCCUPIED AS A PRIVATE DWELLING.

28 (2) THE STATE FIRE MARSHAL MAY ENTER A BUILDING OR PREMISES
29 WITHIN THE JURISDICTION OF THE STATE FIRE MARSHAL AT REASONABLE HOURS
30 TO CONDUCT AN INSPECTION THAT THE STATE FIRE MARSHAL CONSIDERS
31 NECESSARY UNDER THIS SUBTITLE.

32 (C) PRIOR NOTICE PROHIBITED.

33 AN INDIVIDUAL, INCLUDING AN EMPLOYEE OF THE STATE FIRE MARSHAL, MAY
34 NOT GIVE PRIOR NOTICE OF AN INSPECTION AUTHORIZED UNDER THIS SUBTITLE
35 WITHOUT THE WRITTEN APPROVAL OF THE STATE FIRE MARSHAL OR DESIGNEE OF
36 THE STATE FIRE MARSHAL.

1 (D) INSPECTION OF PLACE OF EMPLOYMENT.

2 (1) SUBJECT TO REGULATIONS ADOPTED BY THE COMMISSION,
3 WHENEVER THE STATE FIRE MARSHAL OR DESIGNEE OF THE STATE FIRE MARSHAL
4 INSPECTS A PLACE OF EMPLOYMENT, A REPRESENTATIVE OF THE EMPLOYER AND
5 AN AUTHORIZED EMPLOYEE REPRESENTATIVE SHALL BE GIVEN AN OPPORTUNITY
6 TO ACCOMPANY THE STATE FIRE MARSHAL OR DESIGNEE DURING THE INSPECTION.

7 (2) IF THERE IS NO AUTHORIZED EMPLOYEE REPRESENTATIVE, THE
8 STATE FIRE MARSHAL OR DESIGNEE SHALL CONSULT WITH A REASONABLE NUMBER
9 OF EMPLOYEES ABOUT MATTERS OF SAFETY AND HEALTH IN THE PLACE OF
10 EMPLOYMENT.

11 (E) PROTECTION OF TRADE SECRETS.

12 (1) IN THIS SUBSECTION, "TRADE SECRET" MEANS A CONFIDENTIAL
13 FORMULA, PATTERN, DEVICE, OR COMPILATION OF INFORMATION THAT:

14 (I) IS USED IN AN EMPLOYER'S BUSINESS;

15 (II) GIVES THE EMPLOYER AN OPPORTUNITY TO OBTAIN AN
16 ADVANTAGE OVER COMPETITORS WHO DO NOT KNOW OR USE THE INFORMATION;
17 AND

18 (III) IS KNOWN ONLY TO THE EMPLOYER AND THOSE EMPLOYEES
19 TO WHOM IT IS NECESSARY TO CONFIDE THE INFORMATION.

20 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
21 PARAGRAPH, ANY INFORMATION REPORTED TO OR OTHERWISE OBTAINED BY THE
22 STATE FIRE MARSHAL OR DESIGNEE OF THE STATE FIRE MARSHAL IN CONNECTION
23 WITH AN INSPECTION OR PROCEEDING UNDER THIS SUBTITLE THAT CONTAINS OR
24 MIGHT REVEAL A TRADE SECRET IS CONFIDENTIAL.

25 (II) INFORMATION DESCRIBED IN SUBPARAGRAPH (I) OF THIS
26 PARAGRAPH MAY BE DISCLOSED ONLY:

27 1. TO OTHER OFFICERS OR EMPLOYEES RESPONSIBLE FOR
28 CARRYING OUT THIS SUBTITLE; OR

29 2. IF RELEVANT IN A PROCEEDING UNDER THIS SUBTITLE.

30 (3) IN A PROCEEDING UNDER THIS SUBTITLE, THE STATE FIRE
31 MARSHAL, DESIGNEE OF THE STATE FIRE MARSHAL, OR A COURT OF COMPETENT
32 JURISDICTION, AS APPLICABLE, SHALL ISSUE APPROPRIATE ORDERS TO PROTECT
33 THE CONFIDENTIALITY OF A TRADE SECRET.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 38A, § 8(d) and (e).

36 In subsection (a)(2) of this section, the reference to the "individual in

1 charge of the institution or other place that was inspected" is substituted
2 for the former reference to the "proper administrative head[s]" for clarity
3 and to conform to current practice.

4 In subsection (b)(2) of this section, the reference to this "subtitle" is
5 substituted for the former reference to this "article" for clarity and
6 accuracy. Provisions that relate to inspections by the State Fire Marshal
7 are revised in this subtitle.

8 The Public Safety Article Review Committee notes, for consideration by the
9 General Assembly, that the General Assembly may wish to consider
10 substituting a more widely used definition of the term "trade secret" for
11 the definition used in subsection (e)(1) of this section. This definition was
12 originally enacted in 1972 and predates the Uniform Trade Secrets Act,
13 which was approved by the National Conference of Commissioners on
14 Uniform State Laws in 1979 and amended in 1985. The uniform act has
15 been adopted by 42 states. It was enacted in Maryland in 1989 and is
16 codified in Title 11, Subtitle 12 of the Commercial Law Article.

17 "Trade secret" is defined in the Maryland Uniform Trade Secrets Act (CL §
18 11-1201(e)) as follows:

19 "Trade secret" means information, including a formula, pattern,
20 compilation, program, device, method, technique, or process, that:

21 (1) Derives independent economic value, actual or potential, from not being
22 generally known to, and not being readily ascertainable by proper means
23 by, other persons who can obtain economic value from its disclosure or use;
24 and

25 (2) Is the subject of efforts that are reasonable under the circumstances to
26 maintain its secrecy.

27 Defined terms: "County" § 1-101

28 "State" § 1-101

29 6-308. FEES.

30 (A) FOR INSPECTIONS.

31 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
32 STATE FIRE MARSHAL SHALL COLLECT THE FEES ESTABLISHED BY THE
33 COMMISSION UNDER § 6-206 OF THIS TITLE FOR CONDUCTING INSPECTIONS.

34 (2) THE STATE FIRE MARSHAL MAY NOT COLLECT A FEE FOR
35 INSPECTING PROPERTY THAT IS OWNED BY:

36 (I) THE STATE OR A COUNTY OR MUNICIPAL CORPORATION; OR

1 (II) A GOVERNMENT-AFFILIATED OR VOLUNTEER FIRE, RESCUE,
2 OR EMERGENCY MEDICAL SERVICES ENTITY.

3 (B) FOR PLAN REVIEW.

4 (1) (I) IN THIS SUBSECTION, "PLAN REVIEW" MEANS THE REVIEW OF
5 ALL CONSTRUCTION DRAWINGS AND SPECIFICATIONS FOR COMMERCIAL AND
6 RESIDENTIAL CONSTRUCTION.

7 (II) "PLAN REVIEW" INCLUDES THE REVIEW OF SITE,
8 ARCHITECTURAL, MECHANICAL, ELECTRICAL, SPRINKLER, FIRE ALARM, AND
9 SPECIAL EXTINGUISHING SYSTEMS DRAWINGS AND SPECIFICATIONS.

10 (2) THIS SUBSECTION DOES NOT APPLY TO:

11 (I) CONSTRUCTION OF ONE- AND TWO-FAMILY DWELLINGS; OR

12 (II) CONSTRUCTION FOR WHICH PLAN REVIEW IS CONDUCTED BY
13 THE LOCAL AUTHORITY.

14 (3) THE STATE FIRE MARSHAL SHALL COLLECT THE FEES ESTABLISHED
15 BY THE COMMISSION UNDER § 6-206 OF THIS TITLE FOR REVIEWING BUILDING
16 PLANS TO ENSURE COMPLIANCE WITH THE STATE FIRE PREVENTION CODE.

17 (4) THE FEE FOR PLAN REVIEW SHALL BE SUBMITTED WITH THE PLANS.

18 (C) DISPOSITION OF FEES.

19 THE STATE FIRE MARSHAL SHALL:

20 (1) KEEP RECORDS OF ALL FEES COLLECTED UNDER THIS SECTION;
21 AND

22 (2) PAY THE MONEY COLLECTED UNDER THIS SECTION INTO THE
23 GENERAL FUND.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 38A, §§ 8C and 8(m).

26 In subsections (a)(1) and (b)(3) of this section, the reference to fees
27 established by the Commission "under § 6-206 of this title" is added for
28 clarity.

29 In subsection (b)(3) of this section, the former phrase "in accordance with
30 the provisions of this article" is deleted as surplusage.

31 Defined terms: "Commission" § 6-101

32 "County" § 1-101

1 6-309. INVESTIGATIONS.

2 (A) POWER TO INVESTIGATE FIRES AND EXPLOSIONS.

3 AT ANY TIME, THE STATE FIRE MARSHAL MAY INVESTIGATE THE ORIGIN OR
4 CIRCUMSTANCES OF A FIRE OR EXPLOSION OR AN ATTEMPT TO CAUSE A FIRE OR
5 EXPLOSION THAT OCCURS IN THE STATE.

6 (B) ENTRY INTO BUILDINGS AND PREMISES.

7 AT ANY TIME, THE STATE FIRE MARSHAL:

8 (1) MAY ENTER INTO AND EXAMINE A BUILDING OR PREMISES WHERE A
9 FIRE IS BURNING OR WHERE A FIRE OR ATTEMPT TO CAUSE A FIRE HAS OCCURRED;

10 (2) MAY ENTER INTO A BUILDING OR PREMISES ADJACENT TO A
11 BUILDING OR PREMISES WHERE A FIRE OR ATTEMPT TO CAUSE A FIRE HAS
12 OCCURRED; AND

13 (3) MAY TAKE FULL CONTROL AND CUSTODY OF THE BUILDING OR
14 PREMISES AND PLACE AN INDIVIDUAL THAT THE STATE FIRE MARSHAL CONSIDERS
15 PROPER IN CHARGE OF THE BUILDING OR PREMISES, UNTIL THE EXAMINATION AND
16 INVESTIGATION OF THE STATE FIRE MARSHAL IS COMPLETED.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 38A, § 8(f).

19 In the introductory language of subsection (b) of this section, the phrase
20 "[a]t any time" is substituted for the former phrase "at all times of the day
21 or night" for brevity.

22 In subsection (b)(1) of this section, the former phrase "in performance of
23 the duties imposed by the provisions of this article" is deleted as implicit
24 and unnecessary. Similarly, in subsection (b)(2) of this section, the former
25 phrase "should he deem it necessary in the proper discharge of his duties"
26 is deleted.

27 In subsection (b)(2) of this section, the reference to "premises" is added for
28 consistency with subsection (b)(1) and (3) of this section.

29 6-310. TESTIMONY.

30 (A) IN GENERAL.

31 (1) THE STATE FIRE MARSHAL MAY:

32 (I) TAKE THE TESTIMONY UNDER OATH OF ANY PERSON
33 SUSPECTED TO KNOW OR TO HAVE THE MEANS TO KNOW ANY FACTS THAT RELATE
34 TO THE MATTER THAT IS THE SUBJECT OF THE INSPECTION OR INVESTIGATION; AND

35 (II) CAUSE THE TESTIMONY TO BE REDUCED TO WRITING.

1 (2) THE STATE FIRE MARSHAL SHALL TRANSMIT A COPY OF THE
2 TESTIMONY TAKEN UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE STATE'S
3 ATTORNEY FOR THE COUNTY WHERE THE FIRE OR EXPLOSION OR ATTEMPT TO
4 CAUSE A FIRE OR EXPLOSION OCCURRED.

5 (B) WITNESSES, SUBPOENAS, AND OATHS.

6 THE STATE FIRE MARSHAL MAY:

7 (1) ISSUE SUBPOENAS REQUIRING THE ATTENDANCE OF WITNESSES TO
8 TESTIFY IN RELATION TO ANY MATTER THAT IS THE SUBJECT OF AN INVESTIGATION
9 BY THE STATE FIRE MARSHAL UNDER THIS SUBTITLE;

10 (2) ISSUE SUBPOENAS REQUIRING THE PRODUCTION OF DOCUMENTS
11 THAT RELATE TO ANY MATTER THAT IS THE SUBJECT OF AN INVESTIGATION BY THE
12 STATE FIRE MARSHAL UNDER THIS SUBTITLE; AND

13 (3) ADMINISTER OATHS TO WITNESSES.

14 (C) PERJURY.

15 A PERSON WHO TESTIFIES FALSELY UNDER OATH IN A MATTER OR
16 PROCEEDING OF THE STATE FIRE MARSHAL UNDER THIS SUBTITLE IS GUILTY OF
17 PERJURY AND ON CONVICTION IS SUBJECT TO THE PENALTIES FOR PERJURY.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 38A, § 8(h) and the first and third clauses of
20 (g)(1).

21 In subsection (a)(1)(i) of this section, the reference to an "inspection or
22 investigation" is substituted for the former reference to "the matter herein
23 required to be examined and inquired into" for brevity and consistency
24 within this section.

25 Also in subsection (a)(1)(i) of this section, the former phrase "when in his
26 judgment necessary" is deleted as surplusage.

27 In subsection (a)(2) of this section, the reference to the State's Attorney for
28 the "city", which presumably was a reference to Baltimore City, is deleted
29 because Baltimore City is included in the defined term "county".

30 In subsection (b)(1) and (2) of this section, the references to an
31 "investigation" are substituted for the former references to "a subject of
32 inquiry and investigation" and "such examination" for brevity and
33 consistency within this section and with § 6-309 of this subtitle.

34 In subsection (b)(1) of this section, the phrase "under this subtitle" is
35 substituted for the former phrase "by the provision of this article" because
36 investigations by the State Fire Marshal are covered under this subtitle.

1 %In subsection (b)(3) of this section, the former word "affirmations" is
2 deleted as unnecessary in light of the word "oaths". *See* Art. 1, § 9.

3 Defined terms: "County" § 1-101

4 "Person" § 1-101

5 6-311. ARRESTS.

6 (A) FIRE OR EXPLOSION OF INCENDIARY ORIGIN OR RELATED TO
7 DESTRUCTIVE DEVICE.

8 IF IN THE JUDGMENT OF THE STATE FIRE MARSHAL TESTIMONY TAKEN UNDER
9 OATH DISCLOSES THAT A FIRE OR EXPLOSION OR AN ATTEMPT TO CAUSE A FIRE OR
10 EXPLOSION WAS OF INCENDIARY ORIGIN OR WAS RELATED TO A DESTRUCTIVE
11 DEVICE, AS DEFINED IN § 4-501 OF THE CRIMINAL LAW ARTICLE, THE STATE FIRE
12 MARSHAL MAY ARREST THE SUSPECTED INCENDIARY OR CAUSE THE SUSPECTED
13 INCENDIARY TO BE ARRESTED AND CHARGED.

14 (B) OTHER CRIMES.

15 IF ON INVESTIGATION THE STATE FIRE MARSHAL HAS PROBABLE CAUSE TO
16 BELIEVE THAT A PERSON HAS COMMITTED OR HAS ATTEMPTED TO COMMIT A CRIME
17 THAT INVOLVES A FIRE, FIRE BOMBING, OR FALSE ALARM, OR THAT INVOLVES THE
18 POSSESSION OR MANUFACTURE OF DESTRUCTIVE DEVICES OR EXPLOSIVE
19 SUBSTANCES, FIREWORKS, OR FIRE BOMBS, THE STATE FIRE MARSHAL MAY ARREST
20 THAT PERSON OR CAUSE THE PERSON TO BE ARRESTED AND CHARGED.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 38A, § 8(g)(2) and the second clause of (1).

23 In subsection (a) of this section, the reference to "testimony taken under
24 oath" is substituted for the former reference to "the examination" for
25 clarity and consistency with § 6-310(a) of this subtitle.

26 In subsection (b) of this section, the former phrase "in accordance with the
27 appropriate procedures provided by law" is deleted as surplusage.

28 Defined term: "Person" § 1-101

29 6-312. WRITTEN REPORTS OF INVESTIGATIONS.

30 (A) REQUESTED BY LOCAL GOVERNMENT.

31 AT THE REQUEST OF THE GOVERNING BODY OF A COUNTY OR MUNICIPAL
32 CORPORATION OF THE STATE, THE STATE FIRE MARSHAL SHALL MAKE A WRITTEN
33 REPORT OF THE INVESTIGATION OF A FIRE THAT OCCURRED WITHIN THAT COUNTY
34 OR MUNICIPAL CORPORATION.

35 (B) REQUESTED BY PROPERTY OWNER OR INSURER.

1 AT THE REQUEST OF THE OWNER OR INSURER OF PROPERTY DESTROYED OR
2 DAMAGED BY FIRE OR EXPLOSION, OR IN WHICH AN ATTEMPT TO CAUSE A FIRE OR
3 EXPLOSION MAY HAVE OCCURRED, THE STATE FIRE MARSHAL SHALL MAKE A
4 WRITTEN REPORT OF THE RESULT OF THE INVESTIGATION REGARDING THE
5 PROPERTY.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 38A, § 8(i) and the third sentence of (j).

8 In subsections (a) and (b) of this section, the references to an
9 "investigation" are substituted for the former references to an
10 "examination" for consistency with § 6-309 of this subtitle.

11 In subsection (a) of this section, the reference to "the governing body of a
12 county or municipal corporation" is substituted for the former references to
13 "the county commissioners" and "the municipal authorities" for accuracy
14 and consistency with terminology used throughout this article.

15 Defined term: "County" § 1-101

16 6-313. CHIMNEY FIRE REPORTS.

17 (A) IN GENERAL.

18 ON DETERMINING THAT A CHIMNEY CONTRIBUTED TO CAUSING A FIRE, THE
19 STATE FIRE MARSHAL OR THE LOCAL AUTHORITY WITH JURISDICTION OVER FIRE
20 INVESTIGATIONS SHALL FILE WITH THE STATE FIRE MARSHAL A REPORT THAT
21 IDENTIFIES THE CHIMNEY AS:

22 (1) A LINED, MASONRY CHIMNEY;

23 (2) AN UNLINED, MASONRY CHIMNEY; OR

24 (3) A PREFABRICATED, METAL CHIMNEY.

25 (B) REPOSITORY OF REPORTS.

26 THE STATE FIRE MARSHAL SHALL ESTABLISH AND MAINTAIN A REPOSITORY OF
27 REPORTS FILED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 38A, §§ 14B and 8(l).

30 In the introductory language of subsection (a) of this section, the former
31 reference to the State Fire Marshal's "office" is deleted as surplusage for
32 consistency with subsection (b) of this section.

33 6-314. REPORTS OF LOSSES BY INSURERS.

34 (A) IN GENERAL.

1 WITHIN 10 DAYS AFTER THE ADJUSTMENT OF A LOSS FROM A FIRE IN EXCESS
2 OF \$5,000 DAMAGE SUSTAINED BY AN INSURER DOING BUSINESS IN THE STATE, THE
3 INSURER SHALL REPORT TO THE STATE FIRE MARSHAL, ON A FORM PROVIDED BY
4 THE STATE FIRE MARSHAL, THE INFORMATION THAT THE STATE FIRE MARSHAL
5 CONSIDERS NECESSARY.

6 (B) REPORT ADDITIONAL TO INFORMATION REQUIRED BY INSURANCE
7 COMMISSIONER.

8 THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION IS IN
9 ADDITION TO ANY INFORMATION REQUIRED BY THE INSURANCE COMMISSIONER.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from the first and second sentences of former Art. 38A, § 8(j).

12 In subsection (a) of this section, the general reference to an "insurer" is
13 substituted for the former specific reference to a "fire insurance company
14 or association" to conform to terminology used in the Insurance Article.

15 Also in subsection (a) of this section, the former specific references to "the
16 amount of insurance, the value of the property insured, and the amount of
17 the claim as adjusted" are deleted as included in the general reference to
18 "the information that the State Fire Marshal considers necessary".

19 6-315. ADMINISTRATIVE SEARCH WARRANTS -- FOR FIRE INVESTIGATIONS.

20 (A) APPLICATION FOR WARRANT -- IN GENERAL.

21 THE STATE FIRE MARSHAL, A DESIGNEE OF THE STATE FIRE MARSHAL, A
22 FULL-TIME FIRE INVESTIGATOR WHO IS A MEMBER OF A FIRE DEPARTMENT, OR A
23 POLICE OFFICER MAY APPLY TO A JUDGE OF THE DISTRICT COURT OR A CIRCUIT
24 COURT FOR AN ADMINISTRATIVE SEARCH WARRANT TO ENTER A VEHICLE,
25 BUILDING, OR PREMISES WHERE A FIRE HAS OCCURRED TO CONDUCT A SEARCH TO
26 DETERMINE THE CAUSE AND ORIGIN OF THE FIRE.

27 (B) SAME -- FORM AND CONTENTS.

28 AN APPLICATION UNDER SUBSECTION (A) OF THIS SECTION SHALL:

29 (1) BE IN WRITING;

30 (2) BE SIGNED AND SWORN TO BY THE APPLICANT; AND

31 (3) PARTICULARLY DESCRIBE THE VEHICLE, BUILDING, OR PREMISES
32 TO BE SEARCHED AND THE NATURE, SCOPE, AND PURPOSE OF THE SEARCH TO BE
33 PERFORMED BY THE APPLICANT.

34 (C) ISSUANCE OF WARRANT.

35 A JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT MAY ISSUE THE
36 WARRANT ON FINDING THAT:

1 (1) A FIRE OF UNDETERMINED ORIGIN HAS OCCURRED;

2 (2) THE SCOPE OF THE PROPOSED SEARCH IS REASONABLE AND WILL
3 NOT INTRUDE UNNECESSARILY ON THE FIRE VICTIM'S PRIVACY;

4 (3) THE SEARCH WILL BE EXECUTED AT A REASONABLE AND
5 CONVENIENT TIME; AND

6 (4) THE OWNER, TENANT, OR OTHER INDIVIDUAL IN CHARGE OF THE
7 PROPERTY HAS DENIED ACCESS TO THE PROPERTY, OR AFTER MAKING A
8 REASONABLE EFFORT, THE APPLICANT HAS BEEN UNABLE TO LOCATE ANY OF
9 THESE INDIVIDUALS.

10 (D) CONTENTS OF WARRANT; SCOPE OF SEARCH.

11 (1) AN ADMINISTRATIVE SEARCH WARRANT ISSUED UNDER THIS
12 SECTION SHALL SPECIFY THE VEHICLE, BUILDING, OR PREMISES TO BE SEARCHED.

13 (2) THE SEARCH CONDUCTED MAY NOT EXCEED THE LIMITS SPECIFIED
14 IN THE WARRANT.

15 (E) EXECUTION AND RETURN.

16 AN ADMINISTRATIVE SEARCH WARRANT ISSUED UNDER THIS SECTION SHALL
17 BE EXECUTED AND RETURNED TO THE JUDGE WHO ISSUED IT WITHIN:

18 (1) THE TIME SPECIFIED IN THE WARRANT, NOT EXCEEDING 30 DAYS;
19 OR

20 (2) IF NO TIME PERIOD IS SPECIFIED IN THE WARRANT, 15 DAYS AFTER
21 ITS ISSUANCE.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 38A, § 8A.

24 In subsection (a) of this section, the former specific references to a
25 "factory", "warehouse", "residence", and "establishment" are deleted as
26 included in the general references to a "building" or "premises". Similarly,
27 in subsection (d)(1) of this section, the former references to the "place" or
28 "structure" to be searched are deleted as included in the general reference
29 to the "building" or "premises" for consistency.

30 In subsection (c)(1) of this section, the former phrase "on the premises" is
31 deleted as implicit.

32 6-316. SAME -- FOR FIRE PREVENTION INSPECTIONS.

33 (A) APPLICATION FOR WARRANT -- IN GENERAL.

34 THE STATE FIRE MARSHAL, A DESIGNEE OF THE STATE FIRE MARSHAL, OR A
35 FULL-TIME FIRE PREVENTION INSPECTOR WHO IS EMPLOYED BY A FIRE

1 DEPARTMENT MAY APPLY TO A JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT
2 FOR AN ADMINISTRATIVE SEARCH WARRANT TO ENTER A BUILDING OR PREMISES TO
3 CONDUCT A FIRE PREVENTION INSPECTION.

4 (B) SAME -- FORM AND CONTENTS.

5 AN APPLICATION UNDER SUBSECTION (A) OF THIS SECTION SHALL:

6 (1) BE IN WRITING;

7 (2) BE SIGNED AND SWORN TO BY THE APPLICANT; AND

8 (3) PARTICULARLY DESCRIBE THE BUILDING OR PREMISES TO BE
9 SEARCHED AND THE NATURE, SCOPE, AND PURPOSE OF THE SEARCH TO BE
10 PERFORMED BY THE APPLICANT.

11 (C) ISSUANCE OF WARRANT.

12 A JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT MAY ISSUE THE
13 WARRANT ON FINDING THAT:

14 (1) THE APPLICANT IS AUTHORIZED OR REQUIRED BY LAW TO MAKE
15 THE INSPECTION;

16 (2) THE APPLICANT HAS DEMONSTRATED THAT THE INSPECTION OF
17 THE PREMISES IS SOUGHT AS A RESULT OF:

18 (I) EVIDENCE OF AN EXISTING VIOLATION OF THIS ARTICLE THAT
19 RELATES TO FIRE SAFETY, THE STATE FIRE PREVENTION CODE, OR A LOCAL FIRE
20 PREVENTION CODE, IF APPLICABLE; OR

21 (II) A GENERAL AND NEUTRAL ADMINISTRATIVE PLAN TO
22 CONDUCT FIRE PREVENTION INSPECTIONS;

23 (3) THE OWNER, TENANT, OR OTHER INDIVIDUAL IN CHARGE OF THE
24 PROPERTY HAS DENIED ACCESS TO THE PROPERTY, OR AFTER MAKING A
25 REASONABLE EFFORT, THE APPLICANT HAS BEEN UNABLE TO LOCATE ANY OF
26 THESE INDIVIDUALS; AND

27 (4) THE INSPECTION IS SOUGHT FOR SAFETY RELATED PURPOSES.

28 (D) CONTENTS OF WARRANT; SCOPE OF SEARCH.

29 (1) AN ADMINISTRATIVE SEARCH WARRANT ISSUED UNDER THIS
30 SECTION SHALL SPECIFY THE BUILDING OR PREMISES TO BE SEARCHED.

31 (2) THE INSPECTION CONDUCTED MAY NOT EXCEED THE LIMITS
32 SPECIFIED IN THE WARRANT.

33 (E) EXECUTION AND RETURN.

1 AN ADMINISTRATIVE SEARCH WARRANT ISSUED UNDER THIS SECTION SHALL
2 BE EXECUTED AND RETURNED TO THE JUDGE WHO ISSUED IT WITHIN:

3 (1) THE TIME SPECIFIED IN THE WARRANT, NOT EXCEEDING 30 DAYS;
4 OR

5 (2) IF NO TIME PERIOD IS SPECIFIED IN THE WARRANT, 15 DAYS AFTER
6 ITS ISSUANCE.

7 (F) INFORMATION OBTAINED CONFIDENTIAL.

8 INFORMATION OBTAINED IN ACCORDANCE WITH AN ADMINISTRATIVE SEARCH
9 WARRANT UNDER THIS SECTION IS CONFIDENTIAL AND MAY NOT BE DISCLOSED
10 EXCEPT:

11 (1) TO THE EXTENT USED IN AN ADMINISTRATIVE OR JUDICIAL
12 PROCEEDING THAT ARISES OUT OF A VIOLATION THAT RELATES TO THE PURPOSE
13 FOR WHICH THE WARRANT WAS ISSUED AND WITHIN THE SCOPE OF THE WARRANT;
14 OR

15 (2) TO AN OWNER OR OCCUPANT OF THE BUILDING OR PREMISES.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 38A, § 8B.

18 In subsection (a) of this section, the former specific references to a
19 "factory", "warehouse", and "establishment" are deleted as included in the
20 general references to a "building" or "premises".

21 In subsections (b)(3), (d)(1), and (f)(2) of this section, the references to the
22 "building" or "premises" are added for consistency within this section.

23 In subsection (c)(2)(i) of this section, the reference to a violation of this
24 article "that relates to fire safety" is added to clarify that only certain
25 violations of this article may be the basis for an administrative search
26 warrant.

27 6-317. MAINTENANCE OF FIRE HAZARD PROHIBITED.

28 (A) IN GENERAL.

29 A PERSON MAY NOT ERECT, CONSTRUCT, RECONSTRUCT, ALTER, MAINTAIN, OR
30 USE A BUILDING, STRUCTURE, OR EQUIPMENT OR USE LAND:

31 (1) IN A WAY THAT ENDANGERS LIFE OR PROPERTY DUE TO THE
32 HAZARDS OF FIRE OR EXPLOSION; OR

33 (2) IN VIOLATION OF ANY REGULATION ADOPTED BY THE COMMISSION
34 UNDER § 6-206 OF THIS TITLE.

35 (B) SEPARATE OFFENSES.

1 EACH DAY ON WHICH A VIOLATION OF THIS SECTION CONTINUES AFTER
2 KNOWLEDGE OR OFFICIAL NOTICE OF THE VIOLATION IS A SEPARATE OFFENSE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 38A, §§ 9(a) and 13(b).

5 In subsection (a)(2) of this section, the specific reference to "§ 6-206 of this
6 title" is substituted for the former general reference "under the authority
7 of this article" for clarity and precision.

8 Also in subsection (a)(2) of this section, the former reference to "any
9 change" of any regulation is deleted as unnecessary in light of Art. 1, § 21,
10 which provides that a reference to the Code or any other law applies to any
11 subsequent amendment.

12 Defined terms: "Commission" § 6-101

13 "Person" § 1-101

14 6-318. ABATEMENT ORDERS -- IN GENERAL.

15 (A) AUTHORITY TO ISSUE.

16 THE STATE FIRE MARSHAL MAY ISSUE A REASONABLE ABATEMENT ORDER IF
17 THE STATE FIRE MARSHAL:

18 (1) DETERMINES THAT A BUILDING OR STRUCTURE HAS BEEN
19 CONSTRUCTED, ALTERED, OR REPAIRED IN A MANNER THAT VIOLATES A
20 REGULATION ADOPTED BY THE COMMISSION BEFORE THE CONSTRUCTION,
21 ALTERATION, OR REPAIRS BEGAN;

22 (2) DETERMINES THAT A BUILDING OR STRUCTURE:

23 (I) IS A FIRE HAZARD BECAUSE OF DISREPAIR, AGE, DILAPIDATED
24 OR ABANDONED CONDITION, OR FOR ANY OTHER REASON; AND

25 (II) ENDANGERS OTHER BUILDINGS AND PROPERTY; OR

26 (3) FINDS IN A BUILDING OR ON PREMISES A COMBUSTIBLE,
27 FLAMMABLE, OR EXPLOSIVE SUBSTANCE OR MATERIAL, OR OTHER CONDITION
28 DANGEROUS TO THE SAFETY OF INDIVIDUALS WHO OCCUPY THE BUILDING OR
29 PREMISES AND ADJACENT PREMISES OR PROPERTY.

30 (B) FORM AND CONTENTS.

31 AN ABATEMENT ORDER UNDER THIS SECTION SHALL:

32 (1) BE IN WRITING;

33 (2) BE DIRECTED TO THE OWNER OR OCCUPANT OF THE BUILDING,
34 STRUCTURE, OR PREMISES; AND

1 (3) CONTAIN A NOTICE THAT:

2 (I) COMPLIANCE WITH THE ORDER IS REQUIRED WITHIN THE
3 TIME SPECIFIED IN THE NOTICE; AND

4 (II) ANY PERSON AGGRIEVED BY THE ORDER MAY FILE AN APPEAL
5 FROM THE ORDER IN ACCORDANCE WITH SUBTITLE 5 OF THIS TITLE.

6 (C) RELIEF.

7 THE ABATEMENT ORDER MAY ORDER:

8 (1) THE REPAIR OR DEMOLITION OF THE BUILDING OR STRUCTURE OR
9 THE REMOVAL OF THE COMBUSTIBLE, FLAMMABLE, OR EXPLOSIVE SUBSTANCE OR
10 MATERIAL; AND

11 (2) THE REMEDYING OF ANY CONDITION FOUND TO BE IN VIOLATION OF
12 A REGULATION ADOPTED BY THE COMMISSION OR TO BE DANGEROUS TO THE
13 SAFETY OF INDIVIDUALS OR PROPERTY.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 38A, § 9(b) and the fourth sentence of § 10.

16 In this section and in §§ 6-319 and 6-320 of this subtitle, the references to
17 an "abatement" order are added for clarity and consistency.

18 In subsection (a)(1) of this section, the former reference to a regulation that
19 was "lawfully" adopted is deleted as implicit.

20 In subsections (a)(3) and (c)(2) of this section, the references to the safety of
21 "individuals" are substituted for the former references to "persons" because
22 these provisions are concerned with the safety of human beings.

23 In subsection (b)(3) of this section, the former reference to a "copy" of an
24 order containing a specified notice is deleted as implicit in the requirement
25 that the order contain the notice.

26 In subsection (b)(3)(ii) of this section, the reference to "any person
27 aggrieved by the order" is substituted for the former reference to "any
28 person desiring to contest the validity of any such order" for consistency
29 with Subtitle 5 of this title.

30 Defined terms: "Commission" § 6-101

31 "Person" § 1-101

32 6-319. SAME -- SERVICE OF ORDER.

33 (A) ON OCCUPANT.

34 AN ABATEMENT ORDER DIRECTED TO THE OCCUPANT OF THE PREMISES SHALL
35 BE SERVED WITHIN 5 DAYS AFTER THE ORDER IS ISSUED:

1 (1) BY DELIVERING A TRUE COPY OF THE ORDER TO THE OCCUPANT OR
2 TO AN ADULT WHO IS APPARENTLY IN CHARGE OF THE PREMISES; OR

3 (2) IF NO OCCUPANT OR ADULT IS FOUND ON THE PREMISES:

4 (I) BY POSTING A TRUE COPY OF THE ORDER IN A CONSPICUOUS
5 PLACE ON THE DOOR OR OTHER PROMINENT ENTRANCE TO THE PREMISES; AND

6 (II) 1. BY MAILING A COPY OF THE ORDER BY CERTIFIED MAIL,
7 RETURN RECEIPT REQUESTED, TO THE OCCUPANT AT THE OCCUPANT'S LAST
8 KNOWN ADDRESS; OR

9 2. IF THE ADDRESS OF THE OCCUPANT IS NOT KNOWN, BY
10 MAILING A COPY OF THE ORDER BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
11 TO THE OCCUPANT IN CARE OF GENERAL DELIVERY AT THE POST OFFICE THAT
12 SERVES THE COMMUNITY WHERE THE PREMISES ARE LOCATED.

13 (B) ON OWNER.

14 AN ABATEMENT ORDER DIRECTED TO THE OWNER OF THE PREMISES SHALL BE
15 SERVED WITHIN 5 DAYS AFTER THE ORDER IS ISSUED:

16 (1) BY DELIVERING A TRUE COPY OF THE ORDER TO THE OWNER; OR

17 (2) IF THE OWNER IS ABSENT FROM THE STATE OR THE OWNER'S
18 WHEREABOUTS ARE UNKNOWN TO THE STATE FIRE MARSHAL:

19 (I) BY POSTING A TRUE COPY OF THE ORDER IN A CONSPICUOUS
20 PLACE ON THE DOOR OR OTHER PROMINENT ENTRANCE TO THE PREMISES; AND

21 (II) 1. BY MAILING A COPY OF THE ORDER BY CERTIFIED MAIL,
22 RETURN RECEIPT REQUESTED, TO THE OWNER AT THE OWNER'S LAST KNOWN
23 ADDRESS; OR

24 2. IF THE ADDRESS OF THE OWNER IS NOT KNOWN, BY
25 MAILING A COPY OF THE ORDER BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
26 TO THE OWNER IN CARE OF GENERAL DELIVERY AT THE POST OFFICE THAT SERVES
27 THE COMMUNITY WHERE THE PREMISES ARE LOCATED.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from the first, second, and third sentences of former Art. 38A, § 10.

30 In subsections (a)(2)(ii)1 and 2 and (b)(2)(ii)1 and 2 of this section, the
31 former references to certified mail "bearing a postmark from the United
32 States Postal Service" are deleted as unnecessary in light of Art. 1, § 20,
33 which provides that the term "certified mail" means "the uses, procedures,
34 and fees provided and generally referred to by the United States Post
35 Office Department".

36 In subsections (a)(2)(ii)1 and (b)(2)(ii)1 of this section, the former reference

1 to the last known "post office" address is deleted as surplusage.

2 6-320. SAME -- FAILURE TO COMPLY WITH ORDER.

3 (A) AUTHORITY OF STATE FIRE MARSHAL TO ABATE AT EXPENSE OF OWNER
4 OR OCCUPANT.

5 IF AN OWNER OR OCCUPANT OF A BUILDING, STRUCTURE, OR PREMISES WHO IS
6 SERVED WITH A COPY OF AN ABATEMENT ORDER IN ACCORDANCE WITH § 6-319 OF
7 THIS SUBTITLE FAILS TO COMPLY WITH THE ORDER WITHIN 30 DAYS AFTER THE
8 ORDER IS ISSUED, OR WITHIN 30 DAYS AFTER A COURT'S AFFIRMATION OF THE
9 ORDER BECOMES FINAL, THE STATE FIRE MARSHAL:

10 (1) MAY ENTER THE BUILDING, STRUCTURE, OR PREMISES AFFECTED
11 BY THE ORDER; AND

12 (2) AT THE EXPENSE OF THE OWNER OR OCCUPANT, MAY CAUSE:

13 (I) THE BUILDING, STRUCTURE, OR PREMISES TO BE REPAIRED OR
14 DEMOLISHED;

15 (II) THE COMBUSTIBLE, FLAMMABLE, OR EXPLOSIVE MATERIALS
16 TO BE REMOVED; AND

17 (III) THE DANGEROUS CONDITIONS TO BE REMEDIED.

18 (B) SUIT TO RECOVER EXPENSES.

19 IF THE OWNER OR OCCUPANT FAILS TO REIMBURSE THE STATE FIRE MARSHAL
20 FOR THE EXPENSES INCURRED BY THE STATE FIRE MARSHAL UNDER SUBSECTION
21 (A) OF THIS SECTION WITHIN 30 DAYS AFTER WRITTEN DEMAND IS MAILED TO THE
22 OWNER OR OCCUPANT AT THE OWNER'S OR OCCUPANT'S LAST KNOWN ADDRESS,
23 THE STATE FIRE MARSHAL MAY SUE IN THE NAME OF THE STATE TO RECOVER THE
24 EXPENSES, WITH INTEREST, IN A COURT OF COMPETENT JURISDICTION.

25 (C) COOPERATION BY COUNTY OR MUNICIPAL CORPORATION.

26 (1) IF THE OWNER OR OCCUPANT FAILS TO COMPLY WITH THE
27 ABATEMENT ORDER AFTER THE PERIOD OF TIME SPECIFIED IN SUBSECTION (A) OF
28 THIS SECTION, THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION
29 MAY COOPERATE WITH THE STATE FIRE MARSHAL IN REPAIRING, DEMOLISHING, OR
30 OTHERWISE REMEDYING DANGEROUS CONDITIONS IN A BUILDING OR STRUCTURE
31 IN THE COUNTY OR MUNICIPAL CORPORATION.

32 (2) A LIEN SHALL ATTACH TO THE PROPERTY ON WHICH THE BUILDING
33 OR STRUCTURE STOOD IN THE AMOUNT OF THE EXPENSE OF THE WORK DONE BY
34 THE COUNTY OR MUNICIPAL CORPORATION.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 38A, § 11.

1 %In subsection (a)(1) of this section, the references to the "building" and
2 "structure" are added for consistency throughout subsection (a) of this
3 section.

4 In subsection (b) of this section, the former reference to the last known
5 "post office" address is deleted as surplusage.

6 In subsection (c)(1) and (2) of this section, the reference to a "municipal
7 corporation" is substituted for the former reference to a "municipality" to
8 conform to Art. XI-E of the Maryland Constitution.

9 In subsection (c)(1) of this section, the reference to "the period of time
10 specified in subsection (a) of this section" is substituted for the former
11 reference to "the specified period of time" for clarity and precision.

12 Defined term: "County" § 1-101

13 6-321. ADDITIONAL REMEDIES.

14 IF A BUILDING, STRUCTURE, OR EQUIPMENT IS OR IS PROPOSED TO BE
15 ERECTED, CONSTRUCTED, RECONSTRUCTED, ALTERED, MAINTAINED, OR USED, OR
16 IF LAND IS OR IS PROPOSED TO BE USED IN A WAY THAT ENDANGERS LIFE OR
17 PROPERTY DUE TO THE HAZARDS OF FIRE OR EXPLOSION OR IN VIOLATION OF THIS
18 ARTICLE OR OF ANY REGULATION ADOPTED BY THE COMMISSION UNDER THIS
19 ARTICLE, THE COMMISSION, STATE FIRE MARSHAL, OR ATTORNEY GENERAL MAY, IN
20 ADDITION TO OTHER REMEDIES PROVIDED BY LAW, FILE AN ACTION FOR
21 INJUNCTION, MANDAMUS, OR ABATEMENT OR ANY OTHER APPROPRIATE ACTION TO
22 PREVENT, ENJOIN, ABATE, OR REMOVE THE UNLAWFUL ERECTION, CONSTRUCTION,
23 RECONSTRUCTION, ALTERATION, MAINTENANCE, OR USE.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 38A, § 12.

26 The reference to a violation of "this article" is retained in the revision
27 although the Public Safety Article encompasses provisions derived from
28 articles other than former Article 38A. No substantive change is intended.

29 The former reference to the "change" of any regulation is deleted as
30 unnecessary in light of Art. 1, § 21, which provides that a reference to the
31 Code or any other law applies to any subsequent amendment.

32 Defined term: "Commission" § 6-101

33 6-322. AUTHORITY OF SECRETARY.

34 THE EXERCISE OF ALL POWERS AND AUTHORITY AND THE PERFORMANCE OF
35 ALL DUTIES AND FUNCTIONS VESTED IN THE STATE FIRE MARSHAL UNDER THIS
36 ARTICLE ARE SUBJECT TO THE POWERS AND AUTHORITY OF THE SECRETARY SET
37 FORTH IN TITLE 2 OF THIS ARTICLE OR ELSEWHERE IN STATE LAW.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 38A, § 2(c), as it related to the State Fire Marshal.

3 The reference to the powers and duties of the State Fire Marshal under
4 "this article" is retained in the revision although the Public Safety Article
5 includes provisions derived from articles other than former Article 38A. No
6 substantive change results because the powers and duties of the State Fire
7 Marshal under the Public Safety Article are the same as the powers and
8 duties of the State Fire Marshal under former Article 38A.

9 The reference to "Title 2 of this article" is substituted for the former
10 reference to "Article 88B of this Code" for specificity because most of the
11 provisions from former Article 88B that related to the power of the
12 Secretary of State Police are revised in Title 2 of this title. In addition, the
13 use of the phrase "or elsewhere in State law" picks up any other powers of
14 the Secretary wherever codified.

15 Defined term: "Secretary" § 6-101

16 SUBTITLE 4. BALTIMORE CITY.

17 6-401. APPLICABILITY IN BALTIMORE CITY.

18 THE POWERS, DUTIES, AND JURISDICTION CONFERRED BY THIS ARTICLE ON
19 THE COMMISSION AND THE STATE FIRE MARSHAL, AND ANY CODE, REGULATION, OR
20 PRACTICE ADOPTED BY THEM UNDER THE AUTHORITY OF THIS ARTICLE, APPLY IN
21 BALTIMORE CITY ONLY TO:

22 (1) PROPERTIES OWNED OR OPERATED BY THE STATE;

23 (2) HOSPITALS, NURSING HOMES, AND SIMILAR INSTITUTIONS THAT
24 REQUIRE STATE LICENSURE; AND

25 (3) THE LICENSING OF FIRE SPRINKLER CONTRACTORS.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 38A, § 14A(a).

28 The Public Safety Article Review Committee notes, for consideration by the
29 General Assembly, that this provision has been revised to reflect the Public
30 Safety Article Review Committee's understanding of the intent and
31 meaning of the provision. Consequently, the former phrase
32 "[n]otwithstanding any provisions in §§ 1 through 14 of this article" is
33 deleted. No substantive change is intended.

34 In the introductory language of this section, the reference to any code,
35 regulation, or practice "adopted" by the Commission and the State Fire
36 Marshal is substituted for the former reference to any code, regulation, or
37 practice "promulgated" by the Commission and the State Fire Marshal for
38 consistency within this article. *See* General Revisor's Note to article.

1 Defined term: "Commission" § 6-101

2 6-402. ASSISTANCE FROM COMMISSION AND STATE FIRE MARSHAL.

3 ON REQUEST OF THE CHIEF OF THE BALTIMORE CITY FIRE DEPARTMENT, THE
4 COMMISSION AND STATE FIRE MARSHAL SHALL PROVIDE ANY ASSISTANCE
5 NECESSARY TO:

6 (1) ENFORCE FIRE PREVENTION REGULATIONS IN BALTIMORE CITY;
7 AND

8 (2) INVESTIGATE THE CAUSE OR ORIGIN OF A FIRE IN BALTIMORE CITY.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 38A, § 14A(b).

11 In the introductory language of this section, the former reference to "all"
12 assistance is deleted as unnecessary in light of the reference to "any"
13 assistance.

14 In item (2) of this section, the reference to assistance necessary to
15 "investigate" the cause or origin of a fire is substituted for the former
16 reference to assistance necessary to "[a]ssist in the investigation of" the
17 cause or origin of a fire for brevity.

18 Defined term: "Commission" § 6-101

19 6-403. REPORTS BY BALTIMORE CITY FIRE DEPARTMENT.

20 THE BALTIMORE CITY FIRE DEPARTMENT SHALL REPORT TO THE APPROPRIATE
21 AGENCY ANY NONCOMPLIANCE WITH THE FIRE PREVENTION CODE OR
22 REGULATIONS OF BALTIMORE CITY OR THE FIRE PREVENTION REQUIREMENTS OF
23 THE STATE OR FEDERAL GOVERNMENT:

24 (1) ON PROPERTY THAT IS OWNED BY THE STATE; AND

25 (2) IN A HOSPITAL, NURSING HOME, INSTITUTION, OR SCHOOL THAT IS
26 LICENSED BY THE STATE OR THAT RECEIVES ANY MONEY FROM THE STATE OR
27 FEDERAL GOVERNMENT.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 38A, § 14A(c).

30 In item (2) of this section, the reference to a hospital, nursing home,
31 institution, or school "that is licensed by the State or that receives any
32 money from the State or federal government" is substituted for the former
33 reference to a hospital, nursing home, institution, or school "where State
34 licenses or State or federal moneys are involved" for clarity.

1 SUBTITLE 5. APPEALS.

2 6-501. RIGHT TO FILE APPEAL.

3 AN APPEAL TO THE COMMISSION MAY BE TAKEN BY:

4 (1) A PERSON WHO IS AGGRIEVED BY AN ORDER OR DECISION OF THE
5 STATE FIRE MARSHAL MADE IN THE ADMINISTRATION OR ENFORCEMENT OF THIS
6 ARTICLE; OR

7 (2) AN OFFICER, UNIT, OR AGENCY OF THE STATE OR A POLITICAL
8 SUBDIVISION OF THE STATE THAT IS AFFECTED BY AN ORDER OR DECISION OF THE
9 STATE FIRE MARSHAL MADE IN THE ADMINISTRATION OR ENFORCEMENT OF THIS
10 ARTICLE.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 38A, § 14(a).

13 In items (1) and (2) of this section, the former references to an appeal by
14 certain persons aggrieved or affected by an order or decision of the State
15 Fire Marshal made in the administration or enforcement of "this article"
16 are retained. Although "this article" referred only to former Article 38A,
17 and the Public Safety Article is derived, in part, from provisions outside of
18 former Article 38A, retaining that reference does not constitute a
19 substantive change. The authority of the State Fire Marshal to issue an
20 order or decision under this article is the same as under former Article
21 38A, and therefore the circumstances under which an appeal may be taken
22 remain unchanged.

23 In item (1) of this section, the former reference to an order or decision
24 "based upon" the administration or enforcement of this article is deleted as
25 unnecessary in light of the reference to an order or decision "made in" the
26 administration or enforcement of this article.

27 In item (2) of this section, the reference to an order or decision "made" in
28 the administration or enforcement of this article is added for clarity and
29 consistency with item (1) of this section.

30 Also in item (2) of this section, the reference to a "unit" of the State is
31 substituted for the former references to a "department" and a "board" of
32 the State for brevity and consistency throughout this article. *See* General
33 Revisor's Note to article.

34 Defined terms: "Commission" § 6-101

35 "Person" § 1-101

1 6-502. PROCEDURE.

2 THE TIME WITHIN WHICH AN APPEAL UNDER § 6-501 OF THIS SUBTITLE MUST
3 BE TAKEN, AND THE EFFECT, FORM, AND OTHER PROCEDURES THAT RELATE TO THE
4 APPEAL, SHALL BE AS SPECIFIED IN REGULATIONS ADOPTED BY THE COMMISSION.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 38A, § 14(b).

7 The reference to "an appeal under § 6-501 of this subtitle" is substituted
8 for the former reference to "such appeal" for clarity.

9 The reference to "tak[ing]" an appeal is substituted for the former
10 reference to an appeal being "made" for consistency with § 6-501 of this
11 subtitle.

12 The reference to regulations "adopt[ed]" by the Commission is substituted
13 for the former reference to regulations "promulgated" by the Commission
14 for consistency throughout this article. *See* General Revisor's Note to
15 article.

16 The former reference to regulations adopted by the Commission "in
17 accordance with provisions of the Administrative Procedure Act, Title 10,
18 Subtitle 1 of the State Government Article, as amended from time to time"
19 is deleted as surplusage. The Commission, as a unit in the Executive
20 Branch of State government, is required under the Administrative
21 Procedure Act to comply with the Act in adopting regulations. *See* SG §
22 10-102, which establishes the scope of the Administrative Procedure Act -
23 Regulations.

24 Defined term: "Commission" § 6-101

25 6-503. JUDICIAL REVIEW.

26 A PARTY WHO IS AGGRIEVED BY A FINAL DECISION OF THE COMMISSION IS
27 ENTITLED TO JUDICIAL REVIEW OF THE DECISION AS PROVIDED IN TITLE 10,
28 SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 38A, § 14(c).

31 The reference to judicial review "of the decision" is added for clarity.

32 The former reference to "the Administrative Procedure Act" is deleted as
33 unnecessary in light of the reference to "Title 10, Subtitle 2 of the State
34 Government Article".

35 The phrase "as amended from time to time", which formerly modified
36 "Title 10, Subtitle 2 of the State Government Article", is deleted as
37 unnecessary in light of Art. 1, § 21.

1 Defined term: "Commission" § 6-101

2 SUBTITLE 6. PROHIBITED ACTS; PENALTIES.

3 6-601. VIOLATION OF TITLE OR REGULATION.

4 (A) PROHIBITED.

5 A PERSON MAY NOT KNOWINGLY VIOLATE THIS TITLE OR A REGULATION
6 ADOPTED BY THE COMMISSION.

7 (B) PENALTY.

8 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
9 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 DAYS OR A FINE
10 NOT EXCEEDING \$1,000 OR BOTH.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 38A, § 13(a).

13 In subsection (a) of this section, the reference to any regulation "adopted"
14 by the Commission is substituted for the former reference to any
15 regulation "promulgated" by the Commission for consistency throughout
16 this article. *See* General Revisor's Note to article.

17 In subsection (b) of this section, the reference to a person who violates this
18 section being guilty "of a misdemeanor" is added to state expressly that
19 which was only implied in the former law. In this State, any crime that was
20 not a felony at common law and has not been declared a felony by statute
21 is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490
22 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Dutton v. State*, 123 Md.
23 373, 378 (1914); and *Williams v. State*, 4 Md. App. 342, 347 (1968).

24 Also in subsection (b) of this section, the reference to a person "on
25 conviction" being subject to certain penalties is added to state expressly
26 that which was only implied in the former law, and for consistency with
27 other penalty provisions in this and other revised articles of the Code.

28 Defined terms: "Commission" § 6-101

29 "Person" § 1-101

30 6-602. INTERFERENCE, OBSTRUCTION, OR FALSE REPRESENTATION.

31 (A) INTERFERENCE WITH OR OBSTRUCTION OF EMERGENCY ASSISTANCE
32 PROHIBITED.

33 A PERSON MAY NOT WILLFULLY INTERFERE WITH OR OBSTRUCT THE STATE
34 FIRE MARSHAL, A DEPUTY STATE FIRE MARSHAL, OR A SPECIAL ASSISTANT STATE
35 FIRE MARSHAL WHILE THE STATE FIRE MARSHAL, DEPUTY STATE FIRE MARSHAL,
36 OR SPECIAL ASSISTANT STATE FIRE MARSHAL:

1 (1) IS FIGHTING A FIRE, PERFORMING EMERGENCY SERVICE, OR
2 PROCEEDING TO A FIRE OR OTHER EMERGENCY; OR

3 (2) IS DISPATCHED ON A CALL FOR EMERGENCY SERVICE.

4 (B) INTERFERENCE WITH OR OBSTRUCTION OF INVESTIGATION PROHIBITED.

5 A PERSON MAY NOT WILLFULLY INTERFERE WITH OR OBSTRUCT THE STATE
6 FIRE MARSHAL, A DEPUTY STATE FIRE MARSHAL, OR A SPECIAL ASSISTANT STATE
7 FIRE MARSHAL IN THE COURSE OF CONDUCTING AN INSPECTION OR INVESTIGATING
8 A FIRE OR EXPLOSION.

9 (C) IMPERSONATING FIRE MARSHAL PROHIBITED.

10 A PERSON MAY NOT, WITH FRAUDULENT DESIGN ON PERSON OR PROPERTY,
11 FALSELY REPRESENT THAT THE PERSON IS A STATE FIRE MARSHAL OR A SWORN
12 EMPLOYEE OF THE OFFICE OF STATE FIRE MARSHAL.

13 (D) WEARING ARTICLES OF FIRE MARSHAL OR IMITATIONS PROHIBITED.

14 A PERSON MAY NOT HAVE, USE, WEAR, OR DISPLAY WITHOUT PROPER
15 AUTHORITY, FOR THE PURPOSE OF DECEPTION, A UNIFORM, SHIELD, BUTTON,
16 ORNAMENT, IDENTIFICATION, OR SHOULDER PATCH, OR A SIMULATION OR
17 IMITATION OF THESE ARTICLES, ADOPTED BY THE OFFICE OF STATE FIRE MARSHAL.

18 (E) PENALTY.

19 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
20 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 27, § 11D(b), (d), and, except as they related to
23 firefighters, rescue squad members, and emergency services personnel, (a)
24 and (c).

25 In subsections (a) and (b) of this section, the former references to a "Special
26 Deputy State Fire Marshal" are deleted because this position no longer
27 exists.

28 In subsection (e) of this section, the reference to a person "on conviction"
29 being subject to a certain penalty is added to state expressly that which
30 was only implied in the former law, and for consistency with other penalty
31 provisions in this and other revised articles of the Code.

32 Also in subsection (e) of this section, the reference to "[a] person who
33 violates this section [being] guilty of" a misdemeanor is substituted for the
34 former reference to "[v]iolation of this section [being]" a misdemeanor for
35 consistency with other penalty provisions in this and other revised articles
36 of the Code. Similarly, the phrase "is subject to" imprisonment is
37 substituted for the former phrase "punishable by" imprisonment.

1 Defined term: "Person" § 1-101

2 TITLE 7. FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES ENTITIES.

3 SUBTITLE 1. MUTUAL AID AGREEMENTS BY FIRE, RESCUE, OR EMERGENCY
4 MEDICAL SERVICES ENTITIES.

5 7-101. DEFINITIONS.

6 (A) IN GENERAL.

7 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

8 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 37(a)(1).

9 The only change is in style.

10 (B) FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES ENTITY.

11 "FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES ENTITY" MEANS:

12 (1) A GOVERNMENTAL SUBDIVISION, BY ITS APPROPRIATE DESIGNATED
13 AUTHORITY;

14 (2) A BOARD OR FIRE COMMISSION OF A FIRE DEPARTMENT OR
15 GOVERNMENTAL SUBDIVISION;

16 (3) A FIRE DEPARTMENT;

17 (4) A FIRE COMPANY;

18 (5) A RESCUE SQUAD; OR

19 (6) AN EMERGENCY MEDICAL SERVICES UNIT, INCLUDING AN ENTITY
20 THAT PROVIDES EMERGENCY MEDICAL SERVICES AT ANY LEVEL.

21 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 37(a)(2).

22 The only changes are in style.

23 (C) MUTUAL AID AGREEMENT.

24 (1) "MUTUAL AID AGREEMENT" MEANS AN AGREEMENT TO ESTABLISH
25 AND CARRY OUT A PLAN TO ASSIST IN EXTINGUISHING FIRES AND PRESERVING LIFE
26 AND PROPERTY BY PROVIDING FIRE FIGHTING, RESCUE, OR EMERGENCY MEDICAL
27 EQUIPMENT, PERSONNEL, AND SERVICES.

28 (2) "MUTUAL AID AGREEMENT" INCLUDES A RECIPROCAL AGREEMENT
29 ENTERED INTO IN ACCORDANCE WITH FORMER ARTICLE 38A, § 37 BEFORE JULY 1,
30 1989.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 38A, § 37(a)(3).

3 In paragraph (1) of this subsection, the former phrase "within this State,
4 the District of Columbia, Virginia, West Virginia, Delaware, or
5 Pennsylvania" is deleted as unnecessary in light of § 7-103(a) of this
6 subtitle.

7 In paragraph (2) of this subsection, the reference to a reciprocal agreement
8 entered into in accordance with "former Article 38A, § 37" is substituted for
9 the former reference to a reciprocal agreement entered into in accordance
10 with "this section" for clarity and accuracy.

11 7-102. LIBERAL CONSTRUCTION.

12 THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED IN ORDER TO EFFECT ITS
13 PURPOSE TO PROVIDE MUTUAL AID FOR A FIRE, RESCUE, OR EMERGENCY MEDICAL
14 SERVICES ENTITY IN TIME OF NEED.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 38A, § 41.

17 The phrase "[t]his subtitle" is substituted for the former phrase "[t]he
18 foregoing sections" for clarity and to reflect the reorganization of former
19 Art. 38A, §§ 37 through 41 as a subtitle in this revision.

20 Defined term: "Fire, rescue, or emergency medical services entity" § 7-101

21 7-103. MUTUAL AID AGREEMENTS WITH OTHER STATES AND ENTITIES OF OTHER
22 STATES.

23 (A) AUTHORIZED.

24 A FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES ENTITY MAY ENTER INTO
25 AND RENEW A MUTUAL AID AGREEMENT IN ACCORDANCE WITH THIS SECTION WITH:

26 (1) DELAWARE;

27 (2) THE DISTRICT OF COLUMBIA;

28 (3) PENNSYLVANIA;

29 (4) VIRGINIA;

30 (5) WEST VIRGINIA; OR

31 (6) A FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES ENTITY OF
32 THIS STATE, DELAWARE, THE DISTRICT OF COLUMBIA, PENNSYLVANIA, VIRGINIA, OR
33 WEST VIRGINIA.

34 (B) CLAIMS ARISING OUT OF MUTUAL AID ACTIVITIES.

1 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A MUTUAL AID
2 AGREEMENT MAY PROVIDE THAT A PARTY THAT REQUESTS ASSISTANCE UNDER THE
3 MUTUAL AID AGREEMENT INDEMNIFIES AND HOLDS HARMLESS A PARTY THAT
4 PROVIDES ASSISTANCE UNDER THE MUTUAL AID AGREEMENT FROM ANY CLAIM BY
5 A THIRD PARTY FOR PROPERTY DAMAGE OR PERSONAL INJURY THAT ARISES OUT OF
6 THE MUTUAL AID ACTIVITIES, INCLUDING TRAVEL, OF THE PARTY THAT PROVIDES
7 ASSISTANCE THAT OCCURS OUTSIDE ITS OWN JURISDICTION.

8 (2) THE PARTY THAT REQUESTS ASSISTANCE NEED NOT INDEMNIFY
9 THE PARTY THAT PROVIDES ASSISTANCE IF:

10 (I) THE PARTY THAT PROVIDES ASSISTANCE DOES NOT
11 COOPERATE IN DEFENDING AGAINST A CLAIM MADE BY A THIRD PARTY; OR

12 (II) THE CLAIM BY A THIRD PARTY ARISES OUT OF A MALICIOUS
13 ACT OF THE PARTY THAT PROVIDES ASSISTANCE.

14 (C) REQUIRED WAIVER OF CLAIMS.

15 EACH MUTUAL AID AGREEMENT SHALL PROVIDE THAT EACH PARTY TO THE
16 MUTUAL AID AGREEMENT SHALL WAIVE ANY AND ALL CLAIMS AGAINST ALL OTHER
17 PARTIES TO THE MUTUAL AID AGREEMENT IF THE CLAIM ARISES OUT OF THE
18 ACTIVITIES OF A PARTY OUTSIDE ITS OWN JURISDICTION UNDER THE MUTUAL AID
19 AGREEMENT.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 38A, § 37(b), (c), and (d).

22 In the introductory language of subsection (a) of this section, the phrase "in
23 accordance with this section" is substituted for the former phrase "[e]xcept
24 as provided in subsection (d) of this section" because subsection (c) of this
25 section, which revises former Art. 38A, § 37(d), provides a qualification of
26 the mutual aid agreement, not an exception to the agreement.

27 In subsections (b)(1) and (c) of this section, the former references to a
28 "subscribing" party are deleted as implicit.

29 In subsection (b)(1) of this section, the reference to "holds" harmless is
30 substituted for the former reference to "saves" harmless to use common
31 legal terminology.

32 Defined terms: "Fire, rescue, or emergency medical services entity" § 7-101

33 "Mutual aid agreement" § 7-101

34 7-104. AGREEMENTS WITH FEDERAL GOVERNMENT TO PROVIDE FIRE FIGHTING OR
35 RESCUE ACTIVITIES.

36 (A) AUTHORIZED.

1 A FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES ENTITY MAY ENTER INTO
 2 AN AGREEMENT WITH THE FEDERAL GOVERNMENT IN ACCORDANCE WITH THIS
 3 SECTION TO PROVIDE FIRE FIGHTING OR RESCUE ACTIVITIES ON PROPERTY UNDER
 4 THE JURISDICTION OF THE UNITED STATES.

5 (B) LIMITATION.

6 AN AGREEMENT ENTERED INTO UNDER THIS SECTION SHALL BE LIMITED TO
 7 THE PROVISION OF FIRE FIGHTING OR RESCUE EQUIPMENT AND PERSONNEL OR
 8 BOTH.

9 (C) REQUIRED PROVISIONS.

10 AN AGREEMENT ENTERED INTO UNDER THIS SECTION SHALL INCLUDE:

11 (1) A WAIVER BY EACH PARTY OF ANY CLAIM AGAINST ANY OTHER
 12 PARTY FOR COMPENSATION FOR ANY LOSS, DAMAGE, PERSONAL INJURY, OR DEATH
 13 THAT OCCURS IN THE PERFORMANCE OF THE AGREEMENT;

14 (2) A PROVISION TO INDEMNIFY AND HOLD HARMLESS EACH PARTY TO
 15 THE AGREEMENT FROM ANY CLAIM BY A THIRD PARTY FOR PROPERTY DAMAGE OR
 16 PERSONAL INJURY, WITHIN THE LIMITATIONS PERMITTED BY FEDERAL LAW, THAT
 17 ARISE OUT OF THE ACTIVITIES OF EACH PARTY TO THE AGREEMENT; AND

18 (3) EXCEPT IN ANNE ARUNDEL COUNTY, A PROVISION THAT ENTITLES
 19 THE FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES ENTITY TO OBTAIN
 20 REIMBURSEMENT FROM THE APPROPRIATE FEDERAL AUTHORITY FOR ALL OR PART
 21 OF THE COST OF PROVIDING FIRE PROTECTION ON PROPERTY UNDER THE
 22 JURISDICTION OF THE UNITED STATES IN ACCORDANCE WITH FEDERAL LAW.

23 (D) BENEFITS UNDER WORKERS' COMPENSATION LAW.

24 IF AN INDIVIDUAL ENGAGING IN AN ACTIVITY AUTHORIZED UNDER THIS
 25 SECTION SUSTAINS AN INJURY THAT ARISES OUT OF THE ACTIVITY, THE INDIVIDUAL
 26 IS ENTITLED TO ANY OR ALL BENEFITS AVAILABLE UNDER THE MARYLAND
 27 WORKERS' COMPENSATION ACT AS THE PRIMARY REMEDY FOR REIMBURSEMENT OF
 28 EXPENSES FOR MEDICAL BILLS, LOSS OF EARNINGS, AND DISABILITY THAT ARISES
 29 UNDER OR AS A RESULT OF THIS SECTION.

30 REVISOR'S NOTE: This section is new language derived without substantive
 31 change from former Art. 38A, § 38.

32 In subsection (a) of this section, the former phrase "acting through
 33 authorized agents" is deleted as surplusage.

34 Also in subsection (a) of this section, the former phrase "in their discretion"
 35 is deleted as surplusage.

36 In subsection (b) of this section, the former phrase "to extinguish fires and
 37 save lives on property which is under the jurisdiction of the United States"

1 is deleted as duplicative of what an agreement under this section may
2 provide for as stated in subsection (a) of this section.

3 In subsection (c)(2) and (3) of this section, the former reference to
4 "applicable" federal law is deleted as surplusage.

5 In subsection (c)(2) of this section, the reference to "hold" harmless is
6 substituted for the former reference to "save" harmless to use common
7 legal terminology.

8 In subsection (d) of this section, the reference to an activity "authorized"
9 under this section is added for clarity.

10 Defined term: "Fire, rescue, or emergency medical services entity" § 7-101

11 7-105. TRAINING IN EMERGENCY RESPONSE MEASURES.

12 (A) IN GENERAL.

13 EACH FIRE DEPARTMENT IN THE STATE MAY HAVE MEMBERS TRAINED IN
14 RESPONSE MEASURES THAT INVOLVE FIRE AND OTHER EMERGENCY TECHNIQUES
15 INCLUDING, IF APPROVED BY THE SECRETARY OF STATE POLICE, THE USE OF
16 HELICOPTERS OR OTHER EQUIPMENT OF THE DEPARTMENT OF STATE POLICE.

17 (B) AUTHORITY TO FUNCTION AT SPECIFIED LOCATION.

18 ON REQUEST OF A FIRE CHIEF AT ANY LOCATION IN THE STATE, A
19 FIREFIGHTER OR MEMBER OF THE DEPARTMENT OF STATE POLICE WHO HAS BEEN
20 TRAINED IN THE RESPONSE MEASURES DESCRIBED IN SUBSECTION (A) OF THIS
21 SECTION MAY FUNCTION AT THAT LOCATION.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 38A, § 38A.

24 7-106. BENEFITS ACCRUING UNDER WORKERS' COMPENSATION AND RELATED
25 LAWS.

26 FOR PURPOSES OF A WORKERS' COMPENSATION OR OTHER LAW OR BENEFIT
27 THAT WOULD ACCRUE TO AN INDIVIDUAL, CAREER OR VOLUNTEER, WHO IS
28 PERFORMING A SERVICE ANYWHERE FOR A FIRE, RESCUE, OR EMERGENCY MEDICAL
29 SERVICES ENTITY UNDER A MUTUAL AID AGREEMENT, THE INDIVIDUAL IS
30 CONSIDERED TO HAVE PERFORMED THAT SERVICE IN THE COURSE OF
31 EMPLOYMENT AND IN THE LINE OF DUTY.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 38A, § 39.

34 The references to an "individual" are substituted for the former references
35 to "personnel" for consistency with the Maryland Workers' Compensation
36 Act. *See* LE §§ 9-202 and 9-234.

1 %The reference to a "career" individual is substituted for the former
2 reference to a "paid" individual to conform to terminology used throughout
3 this article to distinguish career and volunteer fire companies and similar
4 entities.

5 The former reference to a fire, rescue, or emergency medical services entity
6 "of this State, or elsewhere" is deleted as implicit in that an individual
7 performing service under a mutual aid agreement is performing the
8 service for a fire, rescue, or emergency medical services entity of Maryland
9 or another state. *See* § 7-103(a) of this subtitle.

10 The former phrase "in order to fully qualify for any benefits otherwise
11 accruing" is deleted as surplusage.

12 Defined terms: "Fire, rescue, or emergency medical services entity" § 7-101

13 "Mutual aid agreement" § 7-101

14 7-107. EXPENDITURES.

15 NECESSARY EXPENDITURES FOR PURPOSES OF THIS SUBTITLE SHALL BE MADE
16 OUT OF ANY APPROPRIATIONS USUALLY AVAILABLE TO A FIRE, RESCUE, OR
17 EMERGENCY MEDICAL SERVICES ENTITY.

18 REVISOR'S NOTE: This section formerly was Art. 38A, § 40.

19 The only change is in style.

20 Defined term: "Fire, rescue, or emergency medical services entity" § 7-101

21 SUBTITLE 2. MEMBERS OF VOLUNTEER FIRE COMPANIES AND RESCUE SQUADS.

22 PART I. DISABILITY AND DEATH BENEFITS.

23 7-201. "BOARD" DEFINED.

24 IN PART I OF THIS SUBTITLE, "BOARD" MEANS THE BOARD OF TRUSTEES OF THE
25 MARYLAND STATE FIREMEN'S ASSOCIATION.

26 REVISOR'S NOTE: This section formerly was Art. 38A, §§ 42(a) and 42A(a).

27 The reference to "Part I of this subtitle" is substituted for the former
28 references to this "section" to reflect the reorganization of former §§ 42 and
29 42A as Part I of this subtitle in this revision.

30 No other changes are made.

31 7-202. DISABILITY BENEFITS.

32 (A) ELIGIBILITY.

1 (1) A MEMBER OF A VOLUNTEER FIRE COMPANY OR VOLUNTEER
2 RESCUE SQUAD IS ELIGIBLE FOR DISABILITY BENEFITS FROM THE MARYLAND
3 STATE FIREMEN'S ASSOCIATION IF:

4 (I) THE MEMBER'S FIRE COMPANY OR RESCUE SQUAD
5 RECOMMENDS THAT THE MEMBER RECEIVE BENEFITS; AND

6 (II) THE MEMBER IS PERMANENTLY OR TEMPORARILY DISABLED:

7 1. AS A DIRECT RESULT OF ACTIVELY PARTICIPATING IN
8 FIGHTING A FIRE;

9 2. WHILE GOING TO OR FROM A FIRE;

10 3. WHILE PERFORMING OTHER DUTIES NECESSARY TO THE
11 OPERATION OR MAINTENANCE OF THE FIRE COMPANY;

12 4. WHILE ACTIVELY PARTICIPATING IN THE EMERGENCY
13 MEDICAL SERVICES UNIT, OR RESCUE WORK OF A VOLUNTEER ADVANCED LIFE
14 SUPPORT UNIT OR A VOLUNTEER FIRE, AMBULANCE, OR RESCUE COMPANY
15 LOCATED IN THE STATE; OR

16 5. WHILE PROVIDING EMERGENCY OR RESCUE ASSISTANCE,
17 WHETHER ACTING ALONE OR AT THE DIRECTION OF OR WITH A FIRE, AMBULANCE,
18 OR RESCUE COMPANY OR ADVANCED LIFE SUPPORT UNIT.

19 (2) A BENEFIT UNDER THIS SECTION SHALL BE PAID:

20 (I) REGARDLESS OF THE DISTRICT IN WHICH THE BENEFICIARY
21 WAS DISABLED; OR

22 (II) REGARDLESS OF WHETHER THE BENEFICIARY WAS DISABLED
23 IN THIS STATE, DELAWARE, THE DISTRICT OF COLUMBIA, PENNSYLVANIA, VIRGINIA,
24 OR WEST VIRGINIA.

25 (B) AMOUNT AND MANNER OF PAYMENT.

26 THE BOARD SHALL PAY A BENEFIT UNDER THIS SECTION FROM THE TREASURY
27 OF THE MARYLAND STATE FIREMEN'S ASSOCIATION IN THE AMOUNT AND IN THE
28 MANNER THAT THE BOARD DETERMINES UNTIL THE BENEFICIARY IS NO LONGER
29 DISABLED.

30 (C) NAME OF BENEFICIARY ADDED TO LIST.

31 THE SECRETARY OF THE BOARD SHALL ADD THE NAME OF EACH BENEFICIARY
32 UNDER THIS SECTION TO THE DISABLED FIREMEN'S AND RESCUE SQUADMEN'S LIST.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 38A, § 42(b), (c), (d), and (e).

35 Throughout this section, references to a "member" of a volunteer fire

1 company or volunteer rescue squad are substituted for the former
 2 references to a "person" who is a volunteer "firefighter", "individual"
 3 serving on a volunteer rescue squad, and "person" for clarity and
 4 consistency throughout this section and this subtitle.

5 In the introductory language of subsection (a)(1) of this section, the word
 6 "disability" is added to modify "benefits" to distinguish disability benefits
 7 from the death benefits and pension benefits also provided for in this
 8 subtitle.

9 Also in the introductory language of subsection (a)(1) of this section, the
 10 reference to the "Maryland State Firemen's Association" is substituted for
 11 the former reference to the "Board" to clarify that the Association is
 12 responsible for funding death benefits.

13 In subsection (a)(1)(ii)4 of this section, the reference to a volunteer unit or
 14 company "located" in the State is added to clarify that the volunteer unit or
 15 company must be located in the State.

16 In subsection (a)(2)(ii) of this section, the former reference to "adjacent
 17 states" is deleted as surplusage.

18 In subsection (c) of this section, the word "add" is substituted for the
 19 former phrase "place and keep" for clarity and brevity.

20 Defined term: "Board" § 7-201

21 7-203. DEATH BENEFITS.

22 (A) ELIGIBILITY.

23 (1) THE BOARD SHALL PAY DEATH BENEFITS UNDER THIS SECTION IF A
 24 MEMBER OF A VOLUNTEER FIRE COMPANY OR MEMBER OF A VOLUNTEER RESCUE
 25 SQUAD DIES:

26 (I) AS A DIRECT RESULT OF ACTIVELY PARTICIPATING IN
 27 FIGHTING A FIRE;

28 (II) WHILE GOING TO OR FROM A FIRE;

29 (III) WHILE PERFORMING OTHER DUTIES NECESSARY TO THE
 30 OPERATION OR MAINTENANCE OF THE FIRE COMPANY;

31 (IV) WHILE ACTIVELY PARTICIPATING IN THE AMBULANCE,
 32 ADVANCED LIFE SUPPORT, OR RESCUE WORK OF A VOLUNTEER ADVANCED LIFE
 33 SUPPORT UNIT OR VOLUNTEER FIRE, AMBULANCE, OR RESCUE COMPANY LOCATED
 34 IN THE STATE; OR

1 (V) WHILE PROVIDING EMERGENCY OR RESCUE ASSISTANCE,
2 WHETHER ACTING ALONE OR AT THE DIRECTION OF OR WITH A FIRE, AMBULANCE,
3 OR RESCUE COMPANY OR ADVANCED LIFE SUPPORT UNIT.

4 (2) A BENEFIT UNDER THIS SUBSECTION SHALL BE PAID:

5 (I) REGARDLESS OF THE DISTRICT IN WHICH THE DECEDENT
6 DIED; OR

7 (II) REGARDLESS OF WHETHER THE DECEDENT DIED IN THIS
8 STATE, DELAWARE, THE DISTRICT OF COLUMBIA, PENNSYLVANIA, VIRGINIA, OR
9 WEST VIRGINIA.

10 (B) AMOUNT OF PAYMENT AND TO WHOM PAID.

11 (1) THE BOARD SHALL PAY A BENEFIT UNDER THIS SECTION FROM THE
12 TREASURY OF THE MARYLAND STATE FIREMEN'S ASSOCIATION IN THE AMOUNT
13 THAT THE BOARD DETERMINES, BUT NOT LESS THAN \$2,000.

14 (2) THE BOARD SHALL PAY A BENEFIT UNDER THIS SUBSECTION:

15 (I) TO THE DECEDENT'S SURVIVING SPOUSE OR DEPENDENT
16 CHILD;

17 (II) IF NO INDIVIDUAL IS ELIGIBLE UNDER ITEM (I) OF THIS
18 PARAGRAPH, TO THE DECEDENT'S SURVIVING DEPENDENT PARENT;

19 (III) IF NO INDIVIDUAL IS ELIGIBLE UNDER ITEM (I) OR (II) OF
20 THIS PARAGRAPH, TO EACH SURVIVING CHILD OF THE DECEDENT IN EQUAL SHARES;

21 (IV) IF NO INDIVIDUAL IS ELIGIBLE UNDER ITEM (I), (II), OR
22 (III) OF THIS PARAGRAPH, TO THE DECEDENT'S SURVIVING PARENT; OR

23 (V) IF NO INDIVIDUAL IS ELIGIBLE UNDER ITEM (I), (II), (III),
24 OR (IV) OF THIS PARAGRAPH, TO EACH SURVIVING SISTER, BROTHER, OR
25 GRANDPARENT OF THE DECEDENT IN EQUAL SHARES.

26 (C) PENSION BENEFITS.

27 (1) IF THERE IS A SURVIVING SPOUSE OR DEPENDENT CHILD:

28 (I) UNTIL THE SURVIVING SPOUSE REMARRIES, THE SURVIVING
29 SPOUSE IS ENTITLED TO RECEIVE A PENSION FROM THE MARYLAND STATE
30 FIREMEN'S ASSOCIATION; AND

31 (II) UNTIL THE DEPENDENT CHILD BECOMES AN ADULT, EACH
32 DEPENDENT CHILD IS ENTITLED TO RECEIVE A PENSION FROM THE MARYLAND
33 STATE FIREMEN'S ASSOCIATION.

1 (2) THE BOARD SHALL PAY A BENEFIT UNDER THIS SUBSECTION FROM
2 THE TREASURY OF THE MARYLAND STATE FIREMEN'S ASSOCIATION IN THE AMOUNT,
3 AT THE TIMES, AND IN THE INSTALLMENTS THAT THE BOARD DETERMINES.

4 (3) THE SECRETARY OF THE BOARD SHALL ADD THE NAME OF EACH
5 BENEFICIARY UNDER THIS SUBSECTION TO THE DISABLED FIREMEN'S AND RESCUE
6 SQUADMEN'S LIST.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 38A, § 42A(b), (c), and (d).

9 In subsection (a)(1) of this section, the reference to a "member" of a
10 volunteer fire company or volunteer rescue squad is substituted for the
11 former references to a volunteer "firefighter" and "individual" serving on a
12 volunteer rescue squad for clarity and consistency with § 7-202 of this
13 subtitle.

14 In subsection (a)(1)(iv) of this section, the reference to a volunteer unit or
15 company "located" in the State is added to clarify that the volunteer unit or
16 company must be located in the State.

17 In subsection (a)(2)(ii) of this section, the former reference to "adjacent
18 states" is deleted as surplusage.

19 Subsection (b)(2) of this section is revised in the active voice to clarify that
20 the Board is responsible for paying death benefits under this section.

21 In subsection (b)(2)(i) and (ii) of this section, the word "decedent's" is added
22 to modify the terms "surviving spouse", "dependent child", and "dependent
23 parent", respectively, to clarify that benefits will only be paid to the
24 decedent's specified relatives.

25 In subsections (b)(2)(i) and (ii) and (c)(1)(ii) of this section, the former
26 references to "children" and "parents", respectively, are deleted in light of
27 Art. 1, § 8, which provides that the singular includes the plural.

28 In subsection (b)(2)(ii) of this section, the reference to the "surviving"
29 dependent parent is added for clarity and consistency throughout
30 subsection (b)(2) of this section.

31 In the introductory language of subsection (c)(1) of this section, the former
32 language "the case shall be laid before the Board, and if the facts are
33 established as provided in § 42" is deleted as implicit.

34 In subsection (c)(1)(ii) of this section, the phrase "becomes an adult" is
35 substituted for the former reference to children who "attain the age of 18
36 years" in light of Art. 1, § 24, which provides that the term "adult" refers to
37 persons who have attained the age of 18 years.

38 In subsection (c)(3) of this section, the word "add" is substituted for the

1 former phrase "be placed" for consistency with § 7-202(c) of this subtitle.

2 Defined term: "Board" § 7-201

3 7-204. FUNDING.

4 (A) IN GENERAL.

5 THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET EACH YEAR AT LEAST
6 \$55,000:

7 (1) FOR THE PURPOSES SET FORTH IN §§ 7-202 AND 7-203 OF THIS
8 SUBTITLE; AND

9 (2) FOR SCHOLARSHIPS FOR CHILDREN OF MEMBERS OF VOLUNTEER
10 FIRE COMPANIES OR VOLUNTEER RESCUE SQUADS WHO ARE KILLED OR DISABLED
11 IN THE LINE OF DUTY, AS PROVIDED IN § 18-602 OF THE EDUCATION ARTICLE.

12 (B) ADMINISTRATION.

13 THE BOARD:

14 (1) SHALL ADMINISTER THE MONEY PROVIDED UNDER SUBSECTION (A)
15 OF THIS SECTION; AND

16 (2) MAY NOT USE IT FOR ADMINISTRATIVE COSTS.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 38A, § 42B.

19 Former Art. 38A, § 42B(a) required that the State budget include at least
20 \$55,000 for the purposes set forth in §§ 7-202 and 7-203 of this subtitle
21 and ED § 18-602. However, the General Assembly can reduce funding in
22 the State budget regardless of this provision. Therefore, subsection (a) of
23 this section is revised to require the Governor to include funding in the
24 State budget but not to require that the funding actually be appropriated.

25 In subsection (a)(2) of this section, the reference to "members" of volunteer
26 fire companies or volunteer rescue squads is substituted for the former
27 references to volunteer "firemen" and volunteer "rescue squadmen" for
28 consistency with §§ 7-202 and 7-203 of this subtitle.

29 Defined term: "Board" § 7-201

30 7-205. ON DUTY FOR PURPOSES OF FEDERAL ACT.

31 A MEMBER OF A VOLUNTEER FIRE COMPANY OR RESCUE SQUAD WHO IS
32 ENGAGED IN A FIRE FIGHTING OR RESCUE ACTIVITY WITH AN ORGANIZED FIRE OR
33 RESCUE COMPANY IS CONSIDERED TO BE ON DUTY DURING THE ACTIVITY FOR THE
34 PURPOSES OF THE FEDERAL PUBLIC SAFETY OFFICERS' BENEFITS ACT OF 1976.

1 REVISOR'S NOTE: This section formerly was Art. 38A, § 45.

2 The reference to a "member" of a volunteer fire company is substituted for
3 the former reference to a volunteer "firefighter" for consistency throughout
4 this subtitle.

5 The only other changes are in style.

6 7-206. RESERVED.

7 7-207. RESERVED.

8 PART II. LENGTH OF SERVICE AWARD PROGRAMS.

9 7-208. CALVERT COUNTY.

10 IN CALVERT COUNTY, THE FIRE AND RESCUE COMMISSION SHALL ADMINISTER
11 A LENGTH OF SERVICE AWARD PROGRAM FOR MEMBERS OF VOLUNTEER FIRE
12 COMPANIES AND RESCUE SQUADS, AS PROVIDED IN TITLE 14 OF THE CODE OF
13 PUBLIC LOCAL LAWS OF CALVERT COUNTY.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 25, § 13B.

16 The reference to "members" of volunteer fire companies is substituted for
17 the former reference to volunteer "firemen" for clarity and consistency with
18 terminology used throughout this subtitle.

19 7-209. CECIL COUNTY.

20 (A) DEFINITIONS.

21 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
22 INDICATED.

23 (2) "BOARD" MEANS THE BOARD OF COUNTY COMMISSIONERS OF CECIL
24 COUNTY.

25 (3) "PROGRAM" MEANS THE VOLUNTEER LENGTH OF SERVICE AWARD
26 PROGRAM.

27 (B) AUTHORITY TO ESTABLISH PROGRAM.

28 IN CECIL COUNTY, THE BOARD MAY ESTABLISH AND FUND A VOLUNTEER
29 LENGTH OF SERVICE AWARD PROGRAM FOR QUALIFIED MEMBERS OF VOLUNTEER
30 FIRE DEPARTMENTS, RESCUE SQUADS, AND AMBULANCE CORPS.

31 (C) BYLAWS.

32 (1) THE BOARD MAY ADOPT BYLAWS FOR THE PROGRAM BY
33 RESOLUTION.

- 1 (2) IN THE BYLAWS, THE BOARD MAY:
- 2 (I) DEFINE TERMS;
- 3 (II) ESTABLISH ELIGIBILITY REQUIREMENTS FOR CERTIFICATION
4 PROCEDURES BASED ON LENGTH OF SERVICE, NUMBER OF HOURS OF SERVICE,
5 AMOUNT OF TRAINING, NUMBER OF HOURS OF TRAINING, PRIOR SERVICE, OR ANY
6 OTHER CRITERIA CONSIDERED RELEVANT BY THE BOARD BASED ON REQUIREMENTS
7 AND PROCEDURES RECOMMENDED BY THE CECIL COUNTY FIREMAN'S ASSOCIATION;
- 8 (III) ESTABLISH APPEALS PROCEDURES FOR MEMBERS WHO
9 CONTEST ELIGIBILITY REQUIREMENT DETERMINATIONS BY THE BOARD;
- 10 (IV) ESTABLISH A BENEFITS SCHEDULE AND DETERMINE
11 ELIGIBILITY REQUIREMENTS, INCLUDING AGE AND LENGTH OF SERVICE
12 REQUIREMENTS;
- 13 (V) DELEGATE RECORDKEEPING RESPONSIBILITIES OF THE
14 PROGRAM TO THE PROGRAM ADMINISTRATIVE COMMITTEE OF THE CECIL COUNTY
15 FIREMAN'S ASSOCIATION;
- 16 (VI) DELEGATE ADMINISTRATION OF THE PROGRAM TO THE CECIL
17 COUNTY TREASURER, A COMMITTEE OR BOARD, AN INSURER, A FINANCIAL
18 INSTITUTION, OR ANY OTHER AGENCY, GROUP, OR ORGANIZATION THAT THE BOARD
19 DETERMINES IS COMPETENT TO ADMINISTER THE PROGRAM;
- 20 (VII) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, ESTABLISH
21 DISABILITY, DEATH, AND SURVIVOR BENEFITS FOR QUALIFIED INDIVIDUALS;
- 22 (VIII) ESTABLISH ANY OTHER REQUIREMENTS, CRITERIA, OR
23 BENEFITS CONSIDERED BY THE BOARD TO BE IN THE BEST INTEREST OF CECIL
24 COUNTY AND THE BEST INTEREST OF THE VOLUNTEER FIRE DEPARTMENTS,
25 RESCUE SQUADS, AND AMBULANCE CORPS;
- 26 (IX) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, ALLOCATE
27 FROM THE GENERAL REVENUE OF CECIL COUNTY OR FROM ANY OTHER SOURCE,
28 FUNDS FOR THE PROGRAM; AND
- 29 (X) ESTABLISH ANY OTHER PROVISION FOR THE ADMINISTRATION
30 OF THE PROGRAM.
- 31 (3) A "SURVIVING SPOUSE" BENEFIT IS DISCONTINUED WHEN THE
32 SURVIVOR REMARRIES.
- 33 (4) FUNDS FOR THE PROGRAM ALLOCATED FROM THE GENERAL
34 REVENUE OF CECIL COUNTY MAY NOT EXCEED:
- 35 (I) \$35,000 DURING THE FIRST YEAR OF THE PROGRAM;
- 36 (II) \$39,000 DURING THE SECOND YEAR OF THE PROGRAM;

- 1 (III) \$44,000 DURING THE THIRD YEAR OF THE PROGRAM;
2 (IV) \$49,000 DURING THE FOURTH YEAR OF THE PROGRAM;
3 (V) \$55,000 DURING THE FIFTH YEAR OF THE PROGRAM; AND
4 (VI) AN ADDITIONAL \$10,000 FOR EACH ADDITIONAL YEAR OF THE
5 PROGRAM OR WHATEVER AMOUNT WOULD MAKE THE PROGRAM ACTUARIALLY
6 SOUND BY JULY 1, 2014.
- 7 (D) MANDATORY PROVISIONS.

8 TO CARRY OUT THIS SECTION, THE BOARD SHALL ADOPT THE FOLLOWING
9 PROVISIONS AS PART OF THE PROGRAM:

10 (1) A MEMBER WHO HAS CERTIFIED CREDIT VOLUNTEER SERVICE ON
11 OR AFTER JANUARY 1, 1979 OR WHO DISCONTINUED ACTIVE VOLUNTEER SERVICE
12 BEFORE JANUARY 1, 1979 MAY RECEIVE CREDIT FOR THIS SERVICE AFTER BEING
13 CERTIFIED IN ACCORDANCE WITH THIS SECTION TO HAVE PERFORMED 5 YEARS OF
14 ACTIVE VOLUNTEER SERVICE AFTER JANUARY 1, 1979;

15 (2) A MEMBER WHO HAS COMPLETED 25 YEARS OF CERTIFIED
16 VOLUNTEER SERVICE AND IS UNDER THE AGE OF 60 YEARS MAY BE QUALIFIED AND
17 WILL BE ELIGIBLE FOR BENEFITS WHEN THE MEMBER REACHES THE AGE OF 60
18 YEARS IF THE MEMBER IS CERTIFIED TO THE 25 YEARS OF QUALIFIED SERVICE
19 BEFORE JANUARY 1, 1984; AND

20 (3) AFTER JANUARY 1, 1984, A MEMBER WHO ACCUMULATES THE
21 PROPER NUMBER OF POINTS NEEDED TO QUALIFY AND CERTIFY FOR 25 YEARS OF
22 SERVICE AND WHO FAILS TO REMAIN ACTIVE OR MAINTAIN MEMBERSHIP IN A
23 VOLUNTEER FIRE COMPANY IS NOT DISQUALIFIED OR OTHERWISE RESTRICTED
24 FROM RECEIVING BENEFITS AT THE AGE OF 60 YEARS.

25 REVISOR'S NOTE: Subsection (a)(1) of this section is new language added as
26 the standard introductory language to a definition subsection.

27 Subsection (a)(2) of this section is new language added to avoid repetition
28 of the full title "Board of County Commissioners of Cecil County".

29 Subsection (a)(3) of this section is new language added to avoid repetition
30 of the full title "Volunteer Length of Service Award Program".

31 Subsections (b), (c), and (d) of this section are new language derived
32 without substantive change from former Art. 25, § 32.5.

33 In subsection (c)(2)(iii) of this section, the reference to "members" is
34 substituted for the former reference to "volunteers" for consistency with
35 terminology used throughout this section.

36 In subsection (c)(2)(viii) of this section, the former reference to "the citizens

1 of" Cecil County is deleted because the meaning in this context is unclear.

2 In subsection (d)(1), (2), and (3) of this section, the reference to a "member"
3 is substituted for the former reference to a "person" for clarity and
4 consistency with terminology used throughout this section.

5 7-210. CHARLES COUNTY.

6 IN CHARLES COUNTY, THE COUNTY COMMISSIONERS SHALL ADMINISTER THE
7 LENGTH OF SERVICE AWARD PROGRAM FOR MEMBERS OF VOLUNTEER FIRE
8 COMPANIES, RESCUE SQUADS, AND MOBILE INTENSIVE CARE UNITS, AS PROVIDED
9 IN §§ 54-8 THROUGH 54-11 OF THE CODE OF PUBLIC LOCAL LAWS OF CHARLES
10 COUNTY.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 25, § 13A.

13 The reference to "members" of volunteer fire companies and rescue squads
14 is substituted for the former reference to volunteer "firemen" and rescue
15 "squadsmen" for consistency with terminology used throughout this
16 subtitle.

17 7-211. FREDERICK COUNTY.

18 (A) AUTHORITY TO ENACT MONETARY SERVICE AWARD PLAN.

19 TO ENCOURAGE VOLUNTEER SERVICE IN FREDERICK COUNTY, THE BOARD OF
20 COUNTY COMMISSIONERS OF FREDERICK COUNTY MAY ENACT A MONETARY
21 SERVICE AWARD PLAN BASED ON LENGTH OF SERVICE FOR MEMBERS OF
22 VOLUNTEER FIRE COMPANIES IN FREDERICK COUNTY.

23 (B) IMPLEMENTATION OF PLAN.

24 THE BOARD OF COUNTY COMMISSIONERS MAY IMPLEMENT THE PLAN BY
25 ENACTING ORDINANCES OR RESOLUTIONS THAT RELATE TO THE PROVISIONS AND
26 IMPLEMENTATION OF THE PLAN.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 25, § 13D.

29 In subsection (a) of this section, the reference to "members" of volunteer
30 fire companies is substituted for the former reference to volunteer
31 "firemen" for consistency with terminology used throughout this subtitle.

32 7-212. ST. MARY'S COUNTY.

33 THE BOARD OF COUNTY COMMISSIONERS OF ST. MARY'S COUNTY MAY:

34 (1) ESTABLISH A LENGTH OF SERVICE AWARD PROGRAM FOR
35 QUALIFIED MEMBERS OF VOLUNTEER FIRE DEPARTMENTS AND RESCUE SQUADS;
36 AND

1 (2) ADOPT BYLAWS FOR THE PROGRAM BY RESOLUTION.

2 REVISOR'S NOTE: This section is new language derived without substantive
3 change from former Art. 25, § 13C.

4 In item (1) of this section, the former word "[c]reate" is deleted as included
5 in the word "establish".

6 7-213. WASHINGTON COUNTY.

7 BY RESOLUTION OR ORDINANCE, THE WASHINGTON COUNTY COMMISSIONERS
8 MAY ESTABLISH AND FUND A VOLUNTEER LENGTH OF SERVICE AWARD PROGRAM
9 FOR QUALIFIED MEMBERS OF VOLUNTEER FIRE DEPARTMENTS, RESCUE SQUADS,
10 AND AMBULANCE CORPS.

11 REVISOR'S NOTE: This section formerly was Art. 25, § 32.6.

12 The only changes are in style.

13 GENERAL REVISOR'S NOTE TO SUBTITLE:

14 Former Art. 38A, § 43, which authorized the governments of Kent and Queen
15 Anne's counties to enact a service award plan for volunteer firemen based on length of
16 service, is deleted as obsolete. The plan was required to become effective prior to July
17 2, 1980. To date, neither Kent County or Queen Anne's County has enacted a service
18 award plan for volunteer firefighters.

19 SUBTITLE 3. MEMBERS OF FIRE COMPANIES APPOINTED AS DEPUTY SHERIFFS.

20 7-301. "COMMANDING OFFICER" DEFINED.

21 IN THIS SUBTITLE, "COMMANDING OFFICER" MEANS THE CAPTAIN, CHIEF, OR
22 OTHER OFFICER IN CHARGE OF A FIRE COMPANY OR AMBULANCE COMPANY.

23 REVISOR'S NOTE: This section is new language added to avoid repetition of
24 the phrase "captain, chief or other commanding officer" of a fire company
25 or ambulance company.

26 7-302. APPOINTMENT OF MEMBERS OF FIRE COMPANIES AS DEPUTY SHERIFFS --
27 BALTIMORE, CAROLINE, CECIL, QUEEN ANNE'S, AND WASHINGTON COUNTIES.

28 (A) SCOPE OF SECTION.

29 THIS SECTION APPLIES ONLY TO BALTIMORE COUNTY, CAROLINE COUNTY,
30 CECIL COUNTY, QUEEN ANNE'S COUNTY, AND WASHINGTON COUNTY.

31 (B) IN GENERAL.

32 THE SHERIFF OF A COUNTY SUBJECT TO THIS SECTION MAY APPOINT AS
33 DEPUTY SHERIFFS MEMBERS OF FIRE COMPANIES, WHETHER VOLUNTEER, CAREER,

1 INCORPORATED, OR UNINCORPORATED, TO EXERCISE THE POWERS OF DEPUTY
2 SHERIFFS AT FIRES AND WHILE GOING TO AND FROM FIRES.

3 (C) DESIGNATION BY COMMANDING OFFICER.

4 (1) THE COMMANDING OFFICER MAY DESIGNATE THREE MEMBERS OF
5 THE FIRE COMPANY TO BE APPOINTED AS DEPUTY SHERIFFS.

6 (2) THE COMMANDING OFFICER MAY BE ONE OF THE THREE MEMBERS
7 DESIGNATED UNDER THIS SUBSECTION.

8 (D) APPOINTMENT BY SHERIFF.

9 (1) (I) EXCEPT IN CAROLINE COUNTY, THE SHERIFF OF A COUNTY
10 SUBJECT TO THIS SECTION SHALL APPOINT AS DEPUTY SHERIFF A MEMBER OF THE
11 FIRE COMPANY DESIGNATED UNDER SUBSECTION (C) OF THIS SECTION ON REQUEST
12 OF THE DESIGNATED MEMBER.

13 (II) IN CAROLINE COUNTY, THE SHERIFF OF CAROLINE COUNTY
14 MAY APPOINT THE DESIGNATED MEMBER AS DEPUTY SHERIFF.

15 (2) A REQUEST FOR APPOINTMENT SHALL BE ACCOMPANIED BY A
16 WRITTEN CERTIFICATE OF DESIGNATION SIGNED BY THE COMMANDING OFFICER.

17 (E) POWERS.

18 (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS
19 SUBSECTION, A MEMBER OF A FIRE COMPANY APPOINTED AS DEPUTY SHERIFF
20 UNDER THIS SECTION MAY EXERCISE THE POWERS OF DEPUTY SHERIFFS AT FIRES
21 AND WHILE GOING TO AND FROM FIRES.

22 (2) THE POWERS OF MEMBERS APPOINTED AS DEPUTY SHERIFFS DO
23 NOT APPLY AND MAY NOT BE EXERCISED IN A MUNICIPAL CORPORATION THAT
24 MAINTAINS AN ORGANIZED POLICE FORCE.

25 (3) IN WASHINGTON COUNTY, A MEMBER APPOINTED AS DEPUTY
26 SHERIFF HAS THE POWERS NECESSARY TO PERFORM THE DUTIES OF DEPUTY
27 SHERIFFS WHILE GOING TO, FUNCTIONING AT, OR RETURNING FROM:

28 (I) FIRES;

29 (II) ACCIDENTS;

30 (III) FLOODS;

31 (IV) OTHER EMERGENCIES; OR

32 (V) OTHER FUNCTIONS CONDUCTED BY A FIRE COMPANY.

33 (F) TERMINATION OF APPOINTMENT; REMOVAL; REPLACEMENT.

1 (1) THE APPOINTMENT OF A MEMBER OF A FIRE COMPANY AS DEPUTY
2 SHERIFF TERMINATES IF THE MEMBER CEASES TO BE A MEMBER OF THE FIRE
3 COMPANY.

4 (2) THE SHERIFF OF A COUNTY SUBJECT TO THIS SECTION MAY REMOVE
5 A MEMBER APPOINTED AS DEPUTY SHERIFF AT ANY TIME FOR JUST CAUSE.

6 (3) IF A MEMBER APPOINTED AS DEPUTY SHERIFF DIES, RESIGNS, IS
7 DISMISSED, REFUSES TO SERVE, OR IS UNABLE TO SERVE, THE COMMANDING
8 OFFICER MAY DESIGNATE ANOTHER MEMBER OF THE FIRE COMPANY TO BE
9 APPOINTED AS DEPUTY SHERIFF.

10 (4) (I) EXCEPT IN CAROLINE COUNTY, IF THE COMMANDING OFFICER
11 DESIGNATES ANOTHER MEMBER OF THE FIRE COMPANY TO BE APPOINTED AS
12 DEPUTY SHERIFF, THE SHERIFF OF THE COUNTY SHALL APPOINT THAT MEMBER AS
13 DEPUTY SHERIFF, SUBJECT TO SUBSECTIONS (D) AND (E) OF THIS SECTION.

14 (II) IN CAROLINE COUNTY, THE SHERIFF OF CAROLINE COUNTY
15 MAY APPOINT THE DESIGNATED MEMBER AS DEPUTY SHERIFF.

16 (G) WASHINGTON COUNTY -- PENSIONS.

17 IN WASHINGTON COUNTY, A MEMBER OF A FIRE COMPANY APPOINTED AS
18 DEPUTY SHERIFF UNDER THIS SECTION IS DEEMED AN APPOINTED OFFICIAL AND
19 SHALL BE TREATED AS AN APPOINTED OFFICIAL FOR PURPOSES OF TITLES 22 AND 23
20 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 87, §§ 49, 50, 51, 52, 54, and 53(a) and (c).

23 In subsections (b) and (d)(1)(i) of this section, the reference to a sheriff of a
24 "county subject to this section" is substituted for the former reference to
25 the sheriffs of "the several counties" for clarity.

26 In subsection (b) of this section, the reference to a "career" fire company is
27 substituted for the former reference to a "paid" fire company for
28 consistency with terminology used throughout this article.

29 In subsection (c)(1) of this section, the former phrase "as is described in §
30 49 of this article", which modified "fire company", is deleted as an
31 unnecessary cross-reference.

32 Subsections (d)(1)(ii) and (f)(4)(ii) of this section are revised to state that
33 the Sheriff of Caroline County "may" appoint the designated member as
34 deputy sheriff for clarity. Former Art. 87, § 53(c), from which subsections
35 (d)(1)(ii) and (f)(4)(ii) of this section are derived, stated that these duties
36 "are not mandatory on the Sheriff of Caroline County".

37 In subsection (e)(2) of this section, the former reference to a "regular"
38 police force is deleted as included in the reference to an "organized" police

1 force.

2 In subsection (f)(4)(i) of this section, the phrase "subject to subsections (d)
3 and (e) of this section" is substituted for the former language "in the same
4 manner and upon the same conditions as provided in § 51 of this article;
5 and the powers of a member of a fire company so appointed shall be the
6 same and subject to the same limitations as provided in § 51 of this article"
7 for brevity.

8 In subsection (g) of this section, the reference to a "member of a fire
9 company appointed as deputy sheriff under this section" is substituted for
10 the former reference to a "deputy sheriff in this State" for specificity.

11 The Public Safety Article Review Committee notes, for consideration by the
12 General Assembly, that the reference to a "volunteer" fire company in
13 former Art. 87, § 51(b)(4) was too narrow. This section applies to career and
14 volunteer fire companies. Consequently, subsection (e)(3)(v) of this section
15 is revised to refer to a "fire company" for consistency throughout this
16 section.

17 Defined terms: "Commanding officer" § 7-301

18 "County" § 1-101

19 7-303. SAME -- ALLEGANY, CARROLL, CECIL, FREDERICK, HARFORD, KENT,
20 SOMERSET, WICOMICO, AND WORCESTER COUNTIES.

21 (A) SCOPE OF SECTION; APPLICABILITY OF § 7-302.

22 (1) THIS SECTION APPLIES ONLY TO ALLEGANY COUNTY, CARROLL
23 COUNTY, CECIL COUNTY, FREDERICK COUNTY, HARFORD COUNTY, KENT COUNTY,
24 SOMERSET COUNTY, WICOMICO COUNTY, AND WORCESTER COUNTY.

25 (2) EXCEPT AS MODIFIED BY THIS SECTION, THE PROVISIONS OF § 7-302
26 OF THIS SUBTITLE APPLY TO THIS SECTION.

27 (B) DESIGNATION BY COMMANDING OFFICER.

28 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
29 COMMANDING OFFICER MAY DESIGNATE 12 MEMBERS OF A FIRE COMPANY TO BE
30 APPOINTED AS DEPUTY SHERIFFS.

31 (2) IN CECIL COUNTY, THE COMMANDING OFFICER MAY DESIGNATE 20
32 MEMBERS OF A FIRE COMPANY TO BE APPOINTED AS DEPUTY SHERIFFS.

33 (C) TRAINING.

34 (1) THE SHERIFF OF A COUNTY SUBJECT TO THIS SECTION MAY
35 REQUIRE A MEMBER OF A FIRE COMPANY APPOINTED AS DEPUTY SHERIFF TO
36 DEMONSTRATE A SATISFACTORY LEVEL OF TRAINING IN THOSE AREAS OF LAW

1 ENFORCEMENT COMMENSURATE WITH THE DUTIES OF DEPUTY SHERIFF
2 DESCRIBED IN THIS SECTION.

3 (2) IF THE SHERIFF REQUIRES DEMONSTRATION OF A SATISFACTORY
4 LEVEL OF TRAINING, THEN THE SHERIFF MUST PROVIDE THE TRAINING, AT A TIME
5 AND PLACE THAT THE SHERIFF CONSIDERS SUITABLE.

6 (D) POWERS.

7 (1) THE POWERS OF MEMBERS OF FIRE COMPANIES APPOINTED AS
8 DEPUTY SHERIFFS UNDER THIS SECTION ARE LIMITED TO THOSE NECESSARY TO
9 PERFORM THE DUTIES OF DEPUTY SHERIFFS WHILE FUNCTIONING AT:

10 (I) PARADES;

11 (II) ACCIDENTS;

12 (III) FLOODS;

13 (IV) OTHER EMERGENCIES; OR

14 (V) PUBLIC EVENTS CONDUCTED BY OR UNDER THE AUSPICES OF
15 A FIRE COMPANY OR THE SHERIFF'S DEPARTMENT.

16 (2) THE POWERS AUTHORIZED UNDER THIS SUBSECTION MAY BE
17 EXERCISED:

18 (I) IN A MUNICIPAL CORPORATION, SUBJECT TO THE DISCRETION
19 AND CONTROL OF THE CHIEF OF THE POLICE FORCE OF THE MUNICIPAL
20 CORPORATION;

21 (II) IN OTHER AREAS OF THE COUNTY; AND

22 (III) ON STATE ROADS, SUBJECT TO THE DISCRETION AND CONTROL
23 OF THE DEPARTMENT OF STATE POLICE.

24 (3) A MEMBER APPOINTED AS DEPUTY SHERIFF IS DEEMED TO BE
25 PERFORMING THE DUTIES OF DEPUTY SHERIFF WHEN ON DUTY AND WEARING A
26 BADGE OF AUTHORITY.

27 (4) A MEMBER APPOINTED AS DEPUTY SHERIFF MAY NOT USE A
28 WEAPON IN THE PERFORMANCE OF DUTIES AUTHORIZED UNDER THIS SUBSECTION.

29 (5) IN ALLEGANY COUNTY, CARROLL COUNTY, FREDERICK COUNTY, AND
30 HARFORD COUNTY, A MEMBER APPOINTED AS DEPUTY SHERIFF MAY ALSO PERFORM
31 TRAFFIC CONTROL FOR PUBLIC FUNCTIONS HELD BY A MUNICIPAL CORPORATION,
32 GROUP, OR COMMITTEE ON REQUEST FOR AND APPROVAL OF THE SERVICES BY THE
33 SHERIFF.

34 (E) CHAIN OF COMMAND.

1 (1) (I) A MEMBER APPOINTED AS DEPUTY SHERIFF PERFORMING THE
2 DUTIES OF DEPUTY SHERIFF IN AN EMERGENCY SITUATION TO WHICH A FIRE
3 COMPANY OR AMBULANCE COMPANY HAS BEEN DISPATCHED BY THE ALLEGANY
4 COUNTY EMERGENCY MANAGEMENT CENTER IN ALLEGANY COUNTY, THE
5 FREDERICK COUNTY CENTRAL ALARM BOARD IN FREDERICK COUNTY, OR THE
6 CARROLL COUNTY EMERGENCY OPERATIONS CENTER IN CARROLL COUNTY, IS
7 SUBJECT TO THE AUTHORITY OF THE COMMANDING OFFICER OF THAT FIRE
8 COMPANY OR AMBULANCE COMPANY.

9 (II) IF A MEMBER APPOINTED AS DEPUTY SHERIFF IS NOT A
10 MEMBER IN GOOD STANDING OF THE FIRE COMPANY OR AMBULANCE COMPANY
11 THAT HAS BEEN DISPATCHED, THEN THE MEMBER MAY NOT PERFORM THE DUTIES
12 DESCRIBED IN THIS SECTION.

13 (2) A MEMBER APPOINTED AS DEPUTY SHERIFF PERFORMING THE
14 DUTIES OF DEPUTY SHERIFF AT A PUBLIC EVENT CONDUCTED BY OR UNDER THE
15 AUSPICES OF A FIRE COMPANY OR AMBULANCE COMPANY IS SUBJECT TO THE
16 AUTHORITY OF THE COMMANDING OFFICER OF THAT FIRE COMPANY OR
17 AMBULANCE COMPANY.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 87, § 53(b)(1) through (7).

20 In subsections (c)(1), (d)(3), (4), and (5), and (e)(1)(i) and (ii) and (2) of this
21 section, the references to "member[s] [of a fire company] appointed as
22 deputy sheriff[s]" are substituted for the former references to "fire police"
23 for consistency with terminology used throughout this subtitle. The former
24 phrase "fire police" only appeared in former Art. 87, § 53(b), and was not
25 used elsewhere in the former subtitle.

26 In subsection (d)(5) of this section, the reference to a "municipal
27 corporation" is substituted for the former references to a "municipality"
28 and "town" to conform to Md. Constitution, Art. XI-E.

29 In subsection (e)(1)(i) of this section, the reference to the Carroll County
30 "Emergency Operations Center" is substituted for the former reference to
31 the Carroll County "Communication Control Center" to use the current
32 name of the entity.

33 The Public Safety Article Review Committee notes, for consideration by the
34 General Assembly, that the reference to a "volunteer" fire company in the
35 first sentence of former Art. 87, § 53(b)(4) was too narrow. This section
36 applies to career and volunteer fire companies. Consequently, subsection
37 (d)(1)(v) of this section is revised to refer to a "fire company" for consistency
38 throughout this section.

39 The Public Safety Article Review Committee also notes, for consideration
40 by the General Assembly, that this section applies to Cecil County. Chapter
41 352, Acts of 1977, added Cecil County to former Art. 87, § 53(b)(1). There
42 are potential conflicts in the law as it applies to Cecil County because Cecil

1 County is covered by both §§ 7-302 and 7-303 of this subtitle.
2 Former Art. 87, § 53(b)(8), which provided that the Sheriff of Allegany
3 County may remove a member appointed as deputy sheriff at any time for
4 just cause, is deleted as surplusage. The Sheriff of Allegany County may
5 dismiss a member appointed as deputy sheriff at any time for just cause
6 under former Art. 87, § 51(a), which is revised in § 7-302(f)(2) of this
7 subtitle.

8 Defined terms: "Commanding officer" § 7-301

9 "County" § 1-101

10 SUBTITLE 4. MISCELLANEOUS PROVISIONS.

11 7-401. PROVISION OF FIRE, AMBULANCE, AND RESCUE SERVICES BY FOR-PROFIT
12 ENTITIES.

13 (A) SCOPE OF SECTION.

14 THIS SECTION DOES NOT APPLY TO NONEMERGENCY TRANSPORTATION OR
15 AMBULANCE BILLING SERVICES PERFORMED BY AN AMBULANCE SERVICE OR BY
16 ANY OTHER PROVIDER.

17 (B) LIMITATION.

18 A COUNTY OR MUNICIPAL CORPORATION THAT BARGAINS COLLECTIVELY WITH
19 FIRE, EMERGENCY MEDICAL SERVICES, PARAMEDIC, AND RESCUE PERSONNEL MAY
20 NOT CONTRACT WITH A FOR-PROFIT ENTITY TO PROVIDE THE COUNTY'S OR
21 MUNICIPAL CORPORATION'S COMPLETE FIRE SUPPRESSION OR AMBULANCE AND
22 RESCUE SERVICES WITHOUT THE ENACTMENT OF AN ORDINANCE OR OTHER LOCAL
23 LAW THAT AUTHORIZES THE ACTION.

24 (C) ENACTMENT OF LOCAL BUDGET BILL.

25 THE REQUIREMENT THAT A COUNTY OR MUNICIPAL CORPORATION ENACT AN
26 ORDINANCE OR OTHER LOCAL LAW UNDER SUBSECTION (B) OF THIS SECTION MAY
27 NOT BE SATISFIED THROUGH THE ENACTMENT OF A LOCAL BUDGET BILL.

28 REVISOR'S NOTE: This section formerly was Art. 38A, § 68.

29 The only changes are in style.

30 Defined term: "County" § 1-101

31 7-402. INTERFERENCE, OBSTRUCTION, OR FALSE REPRESENTATION.

32 (A) INTERFERENCE WITH OR OBSTRUCTION OF EMERGENCY ASSISTANCE
33 PROHIBITED.

1 A PERSON MAY NOT WILLFULLY INTERFERE WITH OR OBSTRUCT A
2 FIREFIGHTER, A RESCUE SQUAD MEMBER, OR EMERGENCY SERVICES PERSONNEL
3 WHILE THE FIREFIGHTER, RESCUE SQUAD MEMBER, OR EMERGENCY SERVICES
4 PERSONNEL:

5 (1) IS FIGHTING A FIRE, PERFORMING EMERGENCY SERVICES, OR
6 PROCEEDING TO A FIRE OR OTHER EMERGENCY; OR

7 (2) IS DISPATCHED ON A CALL FOR EMERGENCY SERVICES.

8 (B) IMPERSONATING FIREFIGHTER OR EMERGENCY SERVICES PERSONNEL
9 PROHIBITED.

10 A PERSON MAY NOT, WITH FRAUDULENT DESIGN ON PERSON OR PROPERTY,
11 FALSELY REPRESENT THAT THE PERSON IS A MEMBER OF A CAREER OR VOLUNTEER
12 FIRE DEPARTMENT, RESCUE SQUAD, OR EMERGENCY SERVICES UNIT OF THE STATE
13 OR A COUNTY OR MUNICIPAL CORPORATION OF THE STATE.

14 (C) WEARING FIREFIGHTER ARTICLES OR IMITATIONS PROHIBITED.

15 A PERSON MAY NOT HAVE, USE, WEAR, OR DISPLAY WITHOUT PROPER
16 AUTHORITY, FOR THE PURPOSE OF DECEPTION, A UNIFORM, SHIELD, BUTTON,
17 ORNAMENT, IDENTIFICATION, OR SHOULDER PATCH, OR A SIMULATION OR
18 IMITATION OF THESE ARTICLES, ADOPTED BY A CAREER OR VOLUNTEER FIRE
19 DEPARTMENT, RESCUE SQUAD, OR EMERGENCY SERVICES UNIT.

20 (D) PENALTY.

21 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
22 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 27, § 11D(d) and, as they related to firefighters,
25 rescue squad members, and emergency services personnel, (a) and (c).

26 In subsection (b) of this section, the former reference to "Baltimore City" is
27 deleted as included in the defined term "county".

28 In subsection (d) of this section, the reference to a person "on conviction"
29 being subject to a certain penalty is added to state expressly that which
30 was only implied in the former law, and for consistency with other penalty
31 provisions in this and other revised articles of the Code.

32 Also in subsection (d) of this section, the reference to "[a] person who
33 violates this section [being] guilty of" a misdemeanor is substituted for the
34 former reference to "[v]iolation of this section [being]" a misdemeanor for
35 consistency with other penalty provisions in this and other revised articles
36 of the Code. Similarly, the phrase "is subject to" imprisonment is
37 substituted for the former phrase "punishable by" imprisonment.

1 Defined terms: "County" § 1-101

2 "Person" § 1-101

3

TITLE 8. FIRE AND RESCUE FUNDS.

4 SUBTITLE 1. SENATOR WILLIAM H. AMOSS FIRE, RESCUE, AND AMBULANCE FUND.

5 8-101. DEFINITIONS.

6 (A) IN GENERAL.

7 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

8 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 45A(a).

9 No changes are made.

10 (B) EXPENDITURES FOR FIRE PROTECTION.

11 (1) "EXPENDITURES FOR FIRE PROTECTION" MEANS:

12 (I) REVENUES APPROPRIATED OR TO BE APPROPRIATED BY A
13 COUNTY FOR FIRE PROTECTION, RESCUE, AND AMBULANCE SERVICES; AND

14 (II) THE PROCEEDS OF ANY COUNTY BONDS USED TO FINANCE
15 FACILITIES THAT HOUSE EQUIPMENT FOR FIRE PROTECTION, RESCUE, AND
16 AMBULANCE SERVICES.

17 (2) "EXPENDITURES FOR FIRE PROTECTION" INCLUDES THE COSTS OF
18 TRAINING PERSONNEL.

19 (3) "EXPENDITURES FOR FIRE PROTECTION" DOES NOT INCLUDE:

20 (I) SALARIES, WORKERS' COMPENSATION, FRINGE BENEFITS, OR
21 OTHER PERSONNEL COSTS;

22 (II) ADMINISTRATIVE COSTS; OR

23 (III) IN CARROLL COUNTY, APPROPRIATIONS FOR LOANS TO A
24 VOLUNTEER FIRE, RESCUE, OR AMBULANCE COMPANY, SECURED BY MORTGAGES,
25 NOTES, OR OTHER EVIDENCE OF INDEBTEDNESS OF THE VOLUNTEER FIRE, RESCUE,
26 OR AMBULANCE COMPANY, IF THE APPROPRIATIONS DERIVE FROM THE PROCEEDS
27 OF BONDS USED TO FINANCE FACILITIES THAT HOUSE EQUIPMENT FOR FIRE
28 PROTECTION, RESCUE, AND AMBULANCE SERVICES.

29 REVISOR'S NOTE: This subsection is new language derived without
30 substantive change from former Art. 38A, § 45A(c) and (d).

31 In the introductory language of paragraphs (1), (2), and (3) of this
32 subsection, the former phrases "expend for fire protection" are deleted as
33 unnecessary because the defined term "expenditures for fire protection" is

1 used throughout this subtitle.

2 In paragraphs (1)(ii) and (3)(iii) of this subsection, the former reference to
3 "apparatus" is deleted as included in the reference to "equipment".

4 Defined term: "County" § 1-101

5 (C) FUND.

6 "FUND" MEANS THE SENATOR WILLIAM H. AMOSS FIRE, RESCUE, AND
7 AMBULANCE FUND.

8 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 45A(e).

9 The former phrase "established under this subtitle" is deleted as
10 unnecessary in a definition.

11 No other changes are made.

12 (D) QUALIFIED MUNICIPAL CORPORATION.

13 (1) "QUALIFIED MUNICIPAL CORPORATION" MEANS A MUNICIPAL
14 CORPORATION IN THE STATE WHOSE EXPENDITURES FOR FIRE PROTECTION FROM
15 MUNICIPAL SOURCES EXCEED \$25,000.

16 (2) "QUALIFIED MUNICIPAL CORPORATION" DOES NOT INCLUDE
17 BALTIMORE CITY.

18 REVISOR'S NOTE: This subsection is new language derived without
19 substantive change from former Art. 38A, § 45A(f).

20 In paragraph (1) of this subsection, the defined term "qualified municipal
21 corporation" is substituted for the former defined term "[q]ualified
22 municipality" to conform to Md. Constitution, Art. XI-E. Similarly, the
23 reference to a "municipal corporation" is substituted for the former
24 reference to an "incorporated city or town".

25 Defined term: "Expenditures for fire protection" § 8-101

26 (E) SECRETARY.

27 "SECRETARY" MEANS THE SECRETARY OF STATE POLICE.

28 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 45A(g).

29 The only change is in style.

30 REVISOR'S NOTE TO SECTION:

31 Former Art. 38A, § 45A(b), which defined "county" to include Baltimore
32 City, is deleted as unnecessary in light of the definition of "county" in §

1 1-101 of this article to the same effect.

2 8-102. SENATOR WILLIAM H. AMOSS FIRE, RESCUE, AND AMBULANCE FUND.

3 (A) ESTABLISHED.

4 THERE IS A SENATOR WILLIAM H. AMOSS FIRE, RESCUE, AND AMBULANCE
5 FUND.

6 (B) PURPOSES.

7 THE PURPOSES OF THE FUND ARE TO PROMOTE:

8 (1) THE DELIVERY OF EFFECTIVE AND HIGH QUALITY FIRE
9 PROTECTION, RESCUE, AND AMBULANCE SERVICES IN THE STATE;

10 (2) INCREASED FINANCIAL SUPPORT FOR FIRE, RESCUE, AND
11 AMBULANCE COMPANIES BY COUNTIES; AND

12 (3) THE CONTINUED FINANCIAL VIABILITY OF VOLUNTEER FIRE,
13 RESCUE, AND AMBULANCE COMPANIES GIVEN THE GREATLY INCREASED COSTS OF
14 EQUIPMENT.

15 (C) ADMINISTRATION.

16 (1) THE SECRETARY SHALL ADMINISTER THE FUND.

17 (2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE SECRETARY
18 MAY ADOPT PROCEDURES TO CARRY OUT THIS SUBTITLE, INCLUDING ADDITIONAL
19 AUDITING AND REPORTING REQUIREMENTS.

20 (3) THE SECRETARY MAY NOT:

21 (I) IMPOSE TRAINING OR OPERATIONAL REQUIREMENTS AS A
22 PRECONDITION TO RECEIPT OF MONEY, EXCEPT AS OTHERWISE EXPRESSLY
23 PROVIDED IN THIS SUBTITLE; OR

24 (II) REQUIRE THAT CAPITAL EQUIPMENT PURCHASED WITH STATE
25 MONEY HAVE A USEFUL LIFE EXPECTANCY OF GREATER THAN 1 YEAR.

26 (D) COMPOSITION.

27 THE FUND CONSISTS OF MONEY APPROPRIATED IN THE STATE BUDGET TO THE
28 FUND.

29 (E) PAYMENTS.

30 (1) AS AUTHORIZED BY THE SECRETARY, THE TREASURER SHALL MAKE
31 PAYMENTS OUT OF THE FUND TO EACH COUNTY ON WARRANT OF THE
32 COMPTROLLER.

1 (2) THE TREASURER SHALL MAKE THE PAYMENTS REQUIRED UNDER
2 THIS SUBSECTION TO THE APPROPRIATE COUNTY IN APPROXIMATELY EQUAL
3 AMOUNTS ON OR ABOUT AUGUST 15, NOVEMBER 15, FEBRUARY 15, AND MAY 15.

4 (F) USE OF STATE MONEY.

5 (1) STATE MONEY PROVIDED UNDER THIS SECTION MAY ONLY BE USED
6 TO:

7 (I) ACQUIRE OR REHABILITATE FIRE OR RESCUE EQUIPMENT,
8 INCLUDING AMBULANCES;

9 (II) ACQUIRE OR REHABILITATE CAPITAL EQUIPMENT USED IN
10 CONNECTION WITH FIRE OR RESCUE EQUIPMENT; AND

11 (III) REHABILITATE FACILITIES USED PRIMARILY TO HOUSE FIRE
12 FIGHTING EQUIPMENT, AMBULANCES, AND RESCUE VEHICLES.

13 (2) STATE MONEY PROVIDED UNDER THIS SECTION MAY NOT BE USED:

14 (I) FOR ADMINISTRATIVE COSTS;

15 (II) FOR COMPENSATION OR FRINGE BENEFITS TO EMPLOYEES OR
16 MEMBERS OF COUNTY GOVERNMENTS, OR FIRE, RESCUE, OR AMBULANCE
17 COMPANIES;

18 (III) FOR TRAVEL OR MEAL EXPENSES;

19 (IV) FOR FUEL, UTILITY, OR ROUTINE MAINTENANCE COSTS OF
20 FACILITIES OR EQUIPMENT;

21 (V) TO ACQUIRE NEW OR REPLACEMENT FIRE HYDRANTS, WATER
22 MAINS, OR EMERGENCY ALARM SYSTEMS NOT INSTALLED AT A FIRE, RESCUE, OR
23 AMBULANCE FACILITY;

24 (VI) FOR INSURANCE;

25 (VII) FOR FUND-RAISING ACTIVITIES;

26 (VIII) TO REFINANCE DEBT OR ANOTHER OBLIGATION INCURRED
27 BEFORE JULY 1, 1985;

28 (IX) TO REPLACE OR REPAIR ELIGIBLE ITEMS TO THE EXTENT THAT
29 INSURANCE PROCEEDS ARE AVAILABLE;

30 (X) FOR COSTS ASSOCIATED WITH THE "9-1-1" EMERGENCY
31 TELEPHONE SYSTEM; OR

32 (XI) FOR LAND OR INTERESTS IN LAND.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 38A, § 45B.

3 In subsection (b)(1) of this section, the reference to delivery of services "in
4 the State" is substituted for the former reference to delivery of services "to
5 the citizens of this State" for clarity and brevity.

6 In subsection (b)(2) of this section, the reference to "counties" is substituted
7 for the former reference to "local governments" for consistency throughout
8 this subtitle. *See* Revisor's Note to § 8-103 of this subtitle.

9 In subsections (b)(3) and (f)(1)(iii) of this section, the former reference to
10 "apparatus" is deleted as included in the reference to "equipment".
11 Consequently, in subsection (f)(1)(i) and (ii) and (2)(iv) of this section, the
12 reference to "equipment" is substituted for the former reference to
13 "apparatus".

14 In subsection (c)(1) of this section, the former reference to administering
15 the Fund "in accordance with this subtitle and other applicable law" is
16 deleted as implicit.

17 In subsection (c)(2) of this section, the reference to the Secretary adopting
18 procedures to "carry out" this subtitle is substituted for the former
19 reference to procedures for the "implementation" of this subtitle to conform
20 to terminology used in other revised articles.

21 In subsections (c)(3)(i) and (ii) and the introductory language of (f)(1) and
22 (2) of this section and throughout this subtitle, the word "money" is
23 substituted for the former word "funds" for clarity and consistency with
24 terminology used throughout this article.

25 In subsection (d) of this section, the phrase "to the Fund" is added for
26 clarity and consistency with similar provisions throughout this article that
27 relate to the composition of a fund.

28 In subsection (f)(2)(x) of this section, the reference to the "9-1-1 emergency
29 telephone system" is substituted for the former reference to the "'911'
30 emergency number system" to conform to terminology used in Title 1,
31 Subtitle 3 of this article.

32 Defined terms: "Fund" § 8-101

33 "Secretary" § 8-101

34 8-103. ALLOCATION AND DISTRIBUTION OF MONEY.

35 (A) ALLOCATION TO COUNTIES.

36 SUBJECT TO SUBSECTION (B) OF THIS SECTION, EACH COUNTY SHALL RECEIVE
37 AN INITIAL ALLOCATION OF MONEY BASED ON A PERCENTAGE TO BE DETERMINED
38 IN THE FOLLOWING MANNER:

1 (1) THE DIRECTOR OF ASSESSMENTS AND TAXATION SHALL CERTIFY TO
2 THE SECRETARY EACH COUNTY'S TOTAL PERCENTAGE OF LAND USE PROPERTY TAX
3 ACCOUNTS, INCLUDING VACANT UNIMPROVED PROPERTIES, RELATIVE TO THE
4 STATEWIDE TOTAL OF ALL LAND USE PROPERTY TAX ACCOUNTS FOR THE FIRST
5 COMPLETED FISCAL YEAR IMMEDIATELY PRECEDING THE FISCAL YEAR FOR WHICH
6 MONEY IS TO BE ALLOCATED;

7 (2) EXCEPT AS PROVIDED IN ITEM (3) OF THIS SUBSECTION, THE
8 PERCENTAGE DETERMINED IN ITEM (1) OF THIS SUBSECTION SHALL THEN BE
9 APPLIED FOR EACH COUNTY TO ANY AMOUNT INCLUDED IN THE STATE BUDGET FOR
10 THE PURPOSES OF THIS SUBTITLE; AND

11 (3) EACH COUNTY SHALL RECEIVE AN ALLOCATION OF AT LEAST 2% OF
12 THE TOTAL FUND AS APPROPRIATED IN THE STATE BUDGET, IN ADDITION TO THE
13 AMOUNT THAT IS DISTRIBUTED TO FIRE, RESCUE, AND AMBULANCE COMPANIES,
14 DEPARTMENTS, OR STATIONS LOCATED IN QUALIFIED MUNICIPAL CORPORATIONS
15 IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

16 (B) DISTRIBUTION TO FIRE, RESCUE, AND AMBULANCE COMPANIES,
17 DEPARTMENTS, OR STATIONS.

18 (1) SUBJECT TO PARAGRAPH (6) OF THIS SUBSECTION, EACH COUNTY
19 SHALL DISTRIBUTE THE MONEY PROVIDED UNDER THIS SUBTITLE ON THE BASIS OF
20 NEED TO FIRE, RESCUE, AND AMBULANCE COMPANIES, DEPARTMENTS, OR
21 STATIONS IN THE COUNTY, INCLUDING COMPANIES, DEPARTMENTS, OR STATIONS
22 LOCATED IN MUNICIPAL CORPORATIONS.

23 (2) EACH COUNTY SHALL DETERMINE NEED IN ACCORDANCE WITH
24 PROCEDURES THAT THE COUNTY USES TO ADOPT ITS BUDGET.

25 (3) IN DETERMINING NEED UNDER THIS SUBSECTION, THE COUNTY
26 SHALL CONSIDER:

27 (I) THE FAILURE TO MEET MINIMUM STANDARDS ESTABLISHED
28 BY THE COUNTY OR THE MARYLAND STATE FIREMEN'S ASSOCIATION;

29 (II) THE EXISTENCE OR POTENTIAL EXISTENCE OF AN EMERGENCY
30 SITUATION AS DESCRIBED IN § 8-204 OF THIS TITLE;

31 (III) THE AGE AND CONDITION OF EXISTING FACILITIES AND
32 EQUIPMENT;

33 (IV) THE LACK OF AVAILABILITY OF MUTUAL AID;

34 (V) ANY SERVICE PROBLEMS ASSOCIATED WITH DEMOGRAPHIC
35 CONDITIONS; AND

36 (VI) ANY OTHER RELEVANT FACTORS.

1 (4) IN ADDITION TO CONSIDERATION OF THE FACTORS IN PARAGRAPH
2 (3) OF THIS SUBSECTION, FOR A VOLUNTEER COMPANY THE COUNTY SHALL
3 CONSIDER THE COMPANY'S INABILITY TO RAISE MONEY TO PAY FOR THE ITEM.

4 (5) NOTWITHSTANDING PARAGRAPHS (3) AND (4) OF THIS SUBSECTION,
5 EACH COUNTY SHALL GIVE THE HIGHEST FUNDING PRIORITY TO THE FAILURE TO
6 MEET MINIMUM STANDARDS OR THE EXISTENCE OF AN EMERGENCY SITUATION AS
7 DESCRIBED IN § 8-204 OF THIS TITLE.

8 (6) DISTRIBUTION OF MONEY TO FIRE, RESCUE, AND AMBULANCE
9 COMPANIES, DEPARTMENTS, OR STATIONS LOCATED IN QUALIFIED MUNICIPAL
10 CORPORATIONS IN A COUNTY IN THE AGGREGATE MAY NOT BE LESS THAN 50% OF
11 THE PROPORTION THAT THE EXPENDITURES OF THE QUALIFIED MUNICIPAL
12 CORPORATION BEAR TO TOTAL AGGREGATE EXPENDITURES FOR FIRE PROTECTION
13 IN THAT COUNTY.

14 (7) TO RECEIVE MONEY UNDER THIS SUBSECTION, EACH COUNTY
15 SHALL PARTICIPATE IN THE MARYLAND FIRE INCIDENT REPORTING SYSTEM AND
16 AMBULANCE INFORMATION SYSTEM.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 38A, § 45C.

19 In subsection (a)(1) of this section, the reference to the "Director of
20 Assessments and Taxation" is substituted for the former reference to the
21 "Director of the Department of Assessments and Taxation" to use the
22 proper title of the Director.

23 Also in subsection (a)(1) of this section, the general reference to "land use
24 property tax accounts" is substituted for the former specific references to
25 "agricultural, agricultural-residential, residential, condominium,
26 apartment, commercial, industrial, and exempted property tax accounts"
27 to accommodate future changes by the Department of Assessments and
28 Taxation in the names of various property tax accounts. The Public Safety
29 Article Review Committee notes this substitution for consideration by the
30 General Assembly.

31 In subsection (a)(3) of this section, the word "Fund" is substituted for the
32 former word "funds" for clarity. Because the Fund is not a nonlapsing fund,
33 the entire Fund must be appropriated each year.

34 In subsection (b)(2) of this section and throughout this subtitle, the word
35 "county" is substituted for the former phrase "local government" for clarity.
36 The intent of the General Assembly clearly was that need be determined by
37 a county on a countywide basis within the limits set by subsection (b)(6) of
38 this section. *See* Report of the Ways and Means Committee on SB 508
39 (1985), which became Chapter 118, Acts of 1985. *See also* subsections (a)(3)
40 and (b)(1) of this section. The Public Safety Article Review Committee
41 notes this substitution for consideration by the General Assembly.

1 %In subsection (b)(2) of this section, the reference to each county
2 "determin[ing] need in accordance with procedures that the county uses to
3 adopt its budget" is substituted for the former reference to the county
4 determining need "pursuant to procedures used by the local government in
5 the adoption of its budget" for clarity.

6 In subsection (b)(3)(ii) of this section, the cross-reference to "§ 8-204 of
7 this title" is added to conform to subsection (b)(5) of this section.

8 In subsection (b)(3)(iii) of this section, the former reference to "apparatus"
9 is deleted as included in the reference to "equipment" for consistency
10 throughout this subtitle.

11 In subsection (b)(7) of this section, the word "money" is substituted for the
12 former phrase "financial assistance" for clarity.

13 Also in subsection (b)(7) of this section, the former phrase "as appropriate"
14 is deleted as implicit.

15 Defined terms: "County" § 1-101

16 "Expenditures for fire protection" § 8-101

17 "Fund" § 8-101

18 "Qualified municipal corporation" § 8-101

19 "Secretary" § 8-101

20 8-104. USE AND EXPENDITURES OF MONEY.

21 (A) IN GENERAL.

22 (1) (I) THE MONEY DISTRIBUTED UNDER THIS SUBTITLE SHALL BE
23 USED BY EACH COUNTY FOR THE PURPOSES LISTED IN § 8-102(F)(1) OF THIS
24 SUBTITLE AS AN ADDITION TO AND MAY NOT BE SUBSTITUTED FOR ANY MONEY
25 APPROPRIATED FROM SOURCES OTHER THAN THE FUND.

26 (II) IN EACH FISCAL YEAR, EACH COUNTY SHALL MAKE
27 EXPENDITURES FOR FIRE PROTECTION FROM SOURCES OTHER THAN THE FUND IN
28 AN AMOUNT THAT IS AT LEAST EQUAL TO THE AVERAGE AMOUNT OF THE
29 EXPENDITURES FOR FIRE PROTECTION DURING THE 3 PRECEDING FISCAL YEARS.

30 (III) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
31 A COUNTY THAT FAILS TO SATISFY THE REQUIREMENTS OF THIS SUBSECTION MAY
32 NOT RECEIVE MONEY UNDER THIS SUBTITLE FOR THAT FISCAL YEAR.

33 (2) FOR EACH FISCAL YEAR, EACH COUNTY THAT FAILS TO SATISFY THE
34 REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION MAY RECEIVE MONEY
35 UNDER THIS SUBTITLE SUBJECT TO A PENALTY EQUAL TO THE PERCENTAGE BY
36 WHICH THE COUNTY FAILS TO MEET THE COUNTY'S MAINTENANCE OF EFFORT FOR
37 THAT FISCAL YEAR.

38 (B) MATCHING STATE MONEY.

1 (1) EACH COUNTY SHALL MAKE EXPENDITURES FOR FIRE PROTECTION
2 FROM ITS OWN SOURCES THAT ARE AT LEAST EQUAL TO THE AMOUNT OF STATE
3 MONEY TO BE RECEIVED.

4 (2) A COUNTY MAY RECEIVE LESS THAN THE AMOUNT INITIALLY
5 ALLOCATED.

6 (3) IN DETERMINING THE AMOUNT OF EXPENDITURES FOR FIRE
7 PROTECTION MADE BY A COUNTY, BEFORE CERTIFICATION, THE SECRETARY SHALL
8 REVIEW THE FINANCIAL INFORMATION OF THE COUNTY FOR THE FIRST COMPLETED
9 FISCAL YEAR BEFORE THE FISCAL YEAR FOR WHICH STATE MONEY IS
10 APPROPRIATED.

11 (4) MONEY RECEIVED FROM THE EMERGENCY ASSISTANCE TRUST
12 FUND UNDER § 8-204 OF THIS TITLE OR OTHER STATE MONEY MAY NOT BE USED AS
13 THE MATCH REQUIRED UNDER THIS SUBSECTION.

14 (C) ALLOCATION OF UNDISTRIBUTED MONEY.

15 (1) MONEY NOT DISTRIBUTED TO A COUNTY BECAUSE THE
16 REQUIREMENTS OF SUBSECTIONS (A) AND (B) OF THIS SECTION ARE NOT SATISFIED
17 SHALL BE DISTRIBUTED TO THE COUNTIES THAT MEET THE REQUIREMENTS OF
18 SUBSECTIONS (A) AND (B) OF THIS SECTION IN ACCORDANCE WITH THIS
19 SUBSECTION.

20 (2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, EACH
21 COUNTY THAT MEETS THE REQUIREMENTS OF SUBSECTIONS (A) AND (B) OF THIS
22 SECTION SHALL RECEIVE AN ALLOCATION OF THE MONEY DISTRIBUTED UNDER
23 PARAGRAPH (1) OF THIS SUBSECTION BASED ON A PERCENTAGE TO BE DETERMINED
24 IN ACCORDANCE WITH § 8-103(A) OF THIS SUBTITLE.

25 (II) FOR PURPOSES OF DETERMINING THE PERCENTAGE
26 ALLOCATED TO EACH COUNTY UNDER THIS SUBSECTION, THE PROPERTY TAX
27 ACCOUNTS OF EACH COUNTY THAT FAILS TO SATISFY THE REQUIREMENTS OF
28 SUBSECTION (A) OR (B) OF THIS SECTION SHALL BE EXCLUDED FROM THE
29 STATEWIDE TOTAL.

30 (3) EACH COUNTY SHALL DISTRIBUTE MONEY PROVIDED UNDER THIS
31 SUBSECTION IN ACCORDANCE WITH § 8-103(B) OF THIS SUBTITLE.

32 (D) ACCOUNTING AND AUDIT OF MONEY DISTRIBUTED TO COUNTIES.

33 (1) THE MONEY DISTRIBUTED UNDER THIS SUBTITLE AND ALLOCATED
34 TO A COUNTY SHALL BE ACCOUNTED FOR AND AUDITED IN ACCORDANCE WITH THE
35 PROCEDURES FOR ACCOUNTING AND AUDITING OF OTHER GOVERNMENTAL
36 REVENUES.

37 (2) MONEY NOT EXPENDED BY THE COUNTY BY THE END OF A FISCAL
38 YEAR SHALL BE PLACED IN A SPECIAL FUND FOR EXPENDITURE IN THE NEXT
39 SUCCEEDING FISCAL YEAR.

1 (3) (I) MONEY DISTRIBUTED UNDER THIS SUBTITLE THAT REMAINS
 2 UNENCUMBERED OR UNEXPENDED BY THE COUNTY AFTER THE SECOND FISCAL
 3 YEAR SHALL BE REPAYED TO THE SECRETARY FOR DEPOSIT IN THE GENERAL FUND.

4 (II) THE COMPTROLLER MAY SET OFF ANY SHARED REVENUES DUE
 5 TO A COUNTY INSTEAD OF REPAYMENT UNDER THIS SUBSECTION.

6 (4) (I) MONEY DISTRIBUTED UNDER THIS SUBTITLE TO BE EXPENDED
 7 BY A VOLUNTEER OR MUNICIPAL FIRE, RESCUE, OR AMBULANCE COMPANY SHALL
 8 BE MAINTAINED IN A SEPARATE ACCOUNT AND SHALL BE AUDITED IN THE SAME
 9 MANNER AS OTHER MONEY OF THE VOLUNTEER OR MUNICIPAL COMPANY IS
 10 AUDITED.

11 (II) COPIES OF THE AUDIT OF THE SEPARATE ACCOUNT SHALL BE
 12 SUBMITTED TO THE RESPECTIVE COUNTY GOVERNMENT AND TO THE DEPARTMENT
 13 OF STATE POLICE.

14 REVISOR'S NOTE: This section is new language derived without substantive
 15 change from former Art. 38A, § 45D(a) through (d).

16 In subsection (a)(1)(i) of this section, the reference to sources other than
 17 the "Fund" is substituted for the former reference to sources other than
 18 "this program" for consistency throughout this subtitle.

19 In subsection (a)(1)(ii) of this section, the former obsolete reference to
 20 "fiscal year 1986" is deleted.

21 In subsections (b)(2) and (d)(3)(ii) of this section, the reference to a "county"
 22 is substituted for the former reference to a "local government" for
 23 consistency throughout this subtitle. *See* Revisor's Note to § 8-103 of this
 24 subtitle.

25 In subsection (b)(4) of this section, the phrase "as the match required
 26 under this subsection" is substituted for the former phrase "as matching
 27 funds" for clarity.

28 In subsection (c)(3) of this section, the reference to "§ 8-103(b) of this
 29 subtitle", which is the revision of former Art. 38A, § 45C(b), is substituted
 30 for the former inaccurate and meaningless reference to former Art. 38A, "§
 31 45(b)". The Public Safety Article Review Committee notes this substitution
 32 for consideration by the General Assembly.

33 Defined terms: "County" § 1-101

34 "Expenditures for fire protection" § 8-101

35 "Fund" § 8-101

36 "Secretary" § 8-101

37 8-105. REQUIRED REPORTS.

38 (A) BY COUNTIES.

1 (1) ON OR BEFORE DECEMBER 31 OF EACH YEAR, EACH COUNTY SHALL
2 SUBMIT TO THE SECRETARY A REPORT FOR THE PRECEDING FISCAL YEAR THAT
3 STATES:

4 (I) THE AMOUNT OF MONEY DISTRIBUTED TO EACH RECIPIENT
5 AND THE PURPOSE OF EXPENDITURE OF THIS MONEY CATEGORIZED AS PROVIDED
6 IN § 8-102(F)(1) OF THIS SUBTITLE;

7 (II) THE AMOUNT AND DISPOSITION OF ANY UNENCUMBERED OR
8 UNEXPENDED MONEY; AND

9 (III) THE AMOUNT OF EXPENDITURES FOR FIRE PROTECTION BY
10 THE COUNTY.

11 (2) EACH COUNTY SHALL PROVIDE A COPY OF THE REPORT REQUIRED
12 UNDER PARAGRAPH (1) OF THIS SUBSECTION, SUBJECT TO § 2-1246 OF THE STATE
13 GOVERNMENT ARTICLE, TO THE DEPARTMENT OF LEGISLATIVE SERVICES.

14 (B) BY SECRETARY.

15 EACH YEAR THE SECRETARY SHALL REPORT TO THE GOVERNOR AND, SUBJECT
16 TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON
17 THE INFORMATION PROVIDED BY THE COUNTIES ON THE DISTRIBUTION OF MONEY
18 PROVIDED UNDER THIS SUBTITLE, INCLUDING AN ASSESSMENT OF THE EXTENT TO
19 WHICH THE PURPOSES OF THIS SUBTITLE ARE BEING ACHIEVED.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 38A, § 45D(e)(1) and (2) and (f).

22 In subsection (b) of this section, the reference to "money" is substituted for
23 the former reference to "aid" for consistency with terminology used
24 throughout this subtitle.

25 Defined terms: "County" § 1-101

26 "Expenditures for fire protection" § 8-101

27 "Secretary" § 8-101

28 8-106. FAILURE TO COMPLY WITH SUBTITLE.

29 (A) IN GENERAL.

30 (1) THE SECRETARY MAY WITHHOLD MONEY ALLOCATED FOR THE NEXT
31 FISCAL YEAR UNDER THIS SUBTITLE FROM A COUNTY IF THE COUNTY DOES NOT
32 COMPLY WITH THIS SUBTITLE.

33 (2) AFTER NOTICE AND AN OPPORTUNITY FOR A HEARING, FAILURE OF
34 A COUNTY TO COMPLY WITH THIS SUBTITLE MAY RESULT IN THE FORFEITURE OF
35 THE ALLOCATED MONEY, IN WHOLE OR IN PART.

36 (B) REVERSION OF WITHHELD MONEY.

1 MONEY WITHHELD UNDER THIS SECTION REVERTS TO THE GENERAL FUND.

2 REVISOR'S NOTE: This section is new language derived without substantive
3 change from former Art. 38A, § 45D(e)(3).

4 The Public Safety Article Review Committee notes, for consideration by the
5 General Assembly, that subsection (b) of this section accurately reflects
6 former Art. 38A, § 45D(e)(3), which provided that failure of a county to
7 comply with this subtitle may result in forfeiture of the allocated money
8 and "reversion to the State General Fund". Money for the Amoss Fund,
9 however, comes from the Maryland Emergency Medical System Operations
10 Fund (MEMSOF). *See* SF § 7-121(b)(5) and TR § 13-955(d)(5).

11 Defined terms: "County" § 1-101

12 "Secretary" § 8-101

13 SUBTITLE 2. VOLUNTEER COMPANY ASSISTANCE FUND.

14 8-201. DEFINITIONS.

15 (A) IN GENERAL.

16 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

17 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 46(a)(1).

18 No changes are made.

19 (B) ASSOCIATION.

20 "ASSOCIATION" MEANS THE MARYLAND STATE FIREMEN'S ASSOCIATION.

21 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 46(a)(2).

22 No changes are made.

23 (C) DEPARTMENT.

24 "DEPARTMENT" MEANS THE DEPARTMENT OF BUDGET AND MANAGEMENT.

25 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 46(a)(4).

26 No changes are made.

27 (D) FUND.

28 "FUND" MEANS THE VOLUNTEER COMPANY ASSISTANCE FUND.

29 REVISOR'S NOTE: This subsection is new language added to avoid repetition
30 of the full title of the "Volunteer Company Assistance Fund".

1 (E) VOLUNTEER COMPANY.

2 "VOLUNTEER COMPANY" MEANS A VOLUNTEER AMBULANCE, FIRE, OR RESCUE
3 COMPANY LOCATED IN THE STATE.

4 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 46(a)(5).

5 No changes are made.

6 REVISOR'S NOTE TO SECTION:

7 Former Art. 38A, § 46(a)(3), which defined "[b]oard" to mean the Board of
8 Public Works, is deleted to avoid confusion. Because different boards are
9 discussed in this subtitle, the full name of each board is used.

10 8-202. VOLUNTEER COMPANY ASSISTANCE FUND -- IN GENERAL.

11 (A) ESTABLISHED.

12 THERE IS A VOLUNTEER COMPANY ASSISTANCE FUND.

13 (B) ACCOUNTS.

14 THE FUND IS COMPOSED OF:

15 (1) THE EMERGENCY ASSISTANCE TRUST ACCOUNT; AND

16 (2) THE LOW INTEREST REVOLVING LOAN ACCOUNT.

17 (C) STATUS.

18 (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT
19 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

20 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE
21 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

22 (D) COMPOSITION.

23 (1) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO
24 THE FUND.

25 (2) REPAYMENTS ON LOANS FROM THE EMERGENCY ASSISTANCE TRUST
26 ACCOUNT OR THE LOW INTEREST REVOLVING LOAN ACCOUNT SHALL BE PLACED IN
27 THE RESPECTIVE ACCOUNT AND MADE AVAILABLE TO FUND REQUESTS FOR MONEY.

28 (E) REGULATIONS.

29 WITH THE APPROVAL OF THE BOARD OF PUBLIC WORKS, THE DEPARTMENT
30 SHALL ADOPT REGULATIONS TO ADMINISTER THE FUND.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 38A, § 46(b) through (e).

3 In subsection (c)(1) of this section, the reference to a "special" fund is
4 substituted for the former reference to a "continuing" fund for consistency
5 with similar provisions throughout this article that relate to the status of
6 funds.

7 In subsection (d)(2) of this section, the former reference to "[a]mounts
8 received as" repayments on loans is deleted as surplusage.

9 In subsection (e) of this section, the former reference to adopting
10 regulations "in accordance with Title 10, Subtitle 1 of the State
11 Government Article" is deleted as surplusage. Regulations of the Executive
12 Branch of State government are adopted in accordance with these
13 provisions in any event.

14 Also in subsection (e) of this section, the former reference to regulations
15 "necessary" to administer the Fund is deleted as surplusage.

16 Defined terms: "Department" § 8-201

17 "Fund" § 8-201

18 8-203. SAME -- AUDITS.

19 (A) AUTHORITY OF COMPTROLLER.

20 THE COMPTROLLER MAY AUDIT THE FINANCIAL AFFAIRS OF THE ASSOCIATION
21 TO ENSURE COMPLIANCE WITH THIS SUBTITLE.

22 (B) FINANCIAL STATEMENTS FROM VOLUNTEER COMPANIES.

23 (1) THE DEPARTMENT SHALL REQUIRE EACH VOLUNTEER COMPANY
24 RECEIVING MONEY UNDER THIS SUBTITLE TO SUBMIT WITHIN 90 DAYS AFTER
25 RECEIPT OF THE EQUIPMENT OR BENEFICIAL OCCUPANCY:

26 (I) FINANCIAL STATEMENTS FOR THE FISCAL YEAR IN WHICH THE
27 MONEY WAS RECEIVED; AND

28 (II) DOCUMENTATION OF ACTUAL EXPENDITURES.

29 (2) EACH VOLUNTEER COMPANY RECEIVING MONEY UNDER THIS
30 SUBTITLE SHALL FORWARD THE FINANCIAL STATEMENTS AND DOCUMENTATION
31 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, SUBJECT TO § 2-1246 OF
32 THE STATE GOVERNMENT ARTICLE, TO THE LEGISLATIVE AUDITOR.

33 (C) REVIEW BY LEGISLATIVE AUDITOR.

34 THE LEGISLATIVE AUDITOR SHALL:

1 (1) REVIEW THE FINANCIAL STATEMENTS AND DOCUMENTATION
2 SUBMITTED IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION TO
3 DETERMINE IF THE MONEY WAS SPENT IN ACCORDANCE WITH THE REQUEST FOR
4 MONEY APPROVED BY THE BOARD OF PUBLIC WORKS; AND

5 (2) REPORT THE FINDINGS TO THE DEPARTMENT AND, SUBJECT TO §
6 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE JOINT AUDIT COMMITTEE OF
7 THE GENERAL ASSEMBLY.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 38A, § 46C.

10 In subsections (b)(1) and (2) and (c)(1) of this section and throughout this
11 subtitle, the reference to "money" is substituted for the former reference to
12 "funds" for consistency with terminology used throughout this title and
13 this article. Similarly, in subsection (c)(1) of this section, the word "money"
14 is substituted for the former phrase "financial assistance" for consistency
15 with terminology used throughout this subtitle.

16 Defined terms: "Association" § 8-201

17 "Department" § 8-201

18 "Volunteer company" § 8-201

19 8-204. EMERGENCY ASSISTANCE TRUST ACCOUNT -- IN GENERAL.

20 (A) "ACCOUNT" DEFINED.

21 IN THIS SECTION, "ACCOUNT" MEANS THE EMERGENCY ASSISTANCE TRUST
22 ACCOUNT.

23 (B) ESTABLISHED.

24 THERE IS AN EMERGENCY ASSISTANCE TRUST ACCOUNT.

25 (C) PURPOSE.

26 THE PURPOSE OF THE ACCOUNT IS TO ENSURE ADEQUATE FIRE PROTECTION
27 AND RESCUE SERVICES IN THE STATE.

28 (D) ANNUAL APPROPRIATION.

29 AFTER CONSULTATION WITH THE ASSOCIATION, THE GOVERNOR MAY INCLUDE
30 IN THE STATE BUDGET EACH YEAR AN AMOUNT FOR THE PURPOSES SET FORTH IN
31 SUBSECTION (E) OF THIS SECTION.

32 (E) USE OF MONEY.

33 A GRANT OR LOAN AWARDED UNDER THIS SECTION SHALL BE USED ONLY FOR:

1 (1) EQUIPMENT, INCLUDING ELEVATED EQUIPMENT, PUMPERS,
2 TANKERS, LADDER TRUCKS, AMBULANCES, RESCUE VEHICLES, OR OTHER LARGE
3 EQUIPMENT USED FOR FIRE FIGHTING AND EMERGENCY SERVICES;

4 (2) COMMUNICATIONS EQUIPMENT;

5 (3) PROTECTIVE EQUIPMENT, INCLUDING HELMETS, TURNOUT COATS
6 AND PANTS, BOOTS, EYESHIELDS, GLOVES, AND SELF-CONTAINED RESPIRATORY
7 PROTECTION UNITS;

8 (4) ANY OTHER EQUIPMENT NECESSARY TO CARRY OUT THE ORDINARY
9 FUNCTIONS OF SUPPORTING FIRE FIGHTING AND RESCUE ACTIVITIES; OR

10 (5) FACILITIES USED TO HOUSE FIRE FIGHTING EQUIPMENT,
11 AMBULANCES, AND RESCUE VEHICLES.

12 (F) REQUIRED MATCH.

13 (1) (I) A VOLUNTEER COMPANY RECEIVING MONEY FROM THE
14 ACCOUNT SHALL PROVIDE AT LEAST A 30% MATCH OF THE AMOUNT OF THE GRANT
15 OR LOAN.

16 (II) IF A VOLUNTEER COMPANY CANNOT REASONABLY PROVIDE
17 THE REQUIRED MATCH BEFORE THE MONEY IS DISBURSED, THE BOARD OF PUBLIC
18 WORKS MAY WAIVE THE REQUIREMENT OR MAY ALLOW REPAYMENT OF THE MATCH
19 WITHIN A REASONABLE TIME NOT EXCEEDING 18 MONTHS AFTER THE PURCHASE OF
20 THE EQUIPMENT OR FACILITIES.

21 (2) (I) MONEY TO PROVIDE THE REQUIRED MATCH MAY INCLUDE
22 CONTRIBUTIONS FROM LOCAL GOVERNMENT.

23 (II) A LOCAL GOVERNMENT MAY NOT REDUCE THE AMOUNT OF
24 MONEY THAT THE VOLUNTEER COMPANY WOULD OTHERWISE BE ENTITLED TO
25 RECEIVE FROM THE LOCAL GOVERNMENT BECAUSE OF STATE MONEY PROVIDED
26 UNDER THIS SECTION.

27 (G) AWARD OF GRANTS OR LOANS.

28 AFTER A FAVORABLE RECOMMENDATION FROM THE DEPARTMENT, THE BOARD
29 OF PUBLIC WORKS MAY AWARD A GRANT, LOAN, OR BOTH FROM THE ACCOUNT TO A
30 VOLUNTEER COMPANY IF:

31 (1) (I) AN ACT OF GOD OR OTHER UNFORESEEN EVENT
32 SUBSTANTIALLY IMPAIRS THE ABILITY OF THE VOLUNTEER COMPANY TO PROVIDE
33 ADEQUATE AND SAFE SERVICE; OR

34 (II) THE VOLUNTEER COMPANY IS UNABLE TO MAINTAIN THE
35 MINIMUM LEVEL OF PERFORMANCE FOR ADEQUATE AND SAFE SERVICE
36 ESTABLISHED BY STANDARDS OF THE ASSOCIATION BECAUSE OF A DEMONSTRATED
37 LACK OF FINANCIAL RESOURCES; AND

1 (2) THE DEPARTMENT AND THE VOLUNTEER COMPANY HAVE
2 EXECUTED AN AGREEMENT THAT:

3 (I) PROVIDES THAT MONEY WILL BE USED AS REPRESENTED TO
4 THE BOARD OF PUBLIC WORKS IN THE REQUEST FOR APPROVAL; AND

5 (II) GIVES TO THE STATE SECURITY IN THE EQUIPMENT OR
6 FACILITIES PURCHASED WITH THE MONEY AND IN THE PROCEEDS OF THAT
7 EQUIPMENT OR THOSE FACILITIES AS DETERMINED BY THE BOARD OF PUBLIC
8 WORKS TO BE APPROPRIATE AND ADEQUATE.

9 (H) PROHIBITIONS ON USE OF MONEY.

10 A GRANT OR LOAN AWARDED UNDER THIS SECTION MAY NOT:

11 (1) BE USED TO REFINANCE A DEBT OR OTHER OBLIGATION OF A
12 VOLUNTEER COMPANY INCURRED BEFORE JULY 1, 1982; OR

13 (2) BE SPENT TO REPLACE OR REPAIR ELIGIBLE ITEMS TO THE EXTENT
14 THAT INSURANCE PROCEEDS ARE AVAILABLE FOR THOSE PURPOSES.

15 (I) LOCAL GOVERNMENT MONEY.

16 THE BOARD OF PUBLIC WORKS MAY NOT APPROVE A GRANT OR LOAN FROM
17 THE ACCOUNT TO A VOLUNTEER COMPANY IF THE VOLUNTEER COMPANY HAS NOT
18 MADE A GOOD FAITH EFFORT TO OBTAIN MONEY FROM ITS LOCAL GOVERNMENT.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 38A, § 46A.

21 In subsection (c) of this section, the reference to fire protection and rescue
22 services "in the State" is substituted for the former reference to services
23 "for the people of this State" for brevity and consistency with § 8-102(b)(1)
24 of this title.

25 In subsection (e)(1) of this section, the former word "[a]pparatus" is deleted
26 as redundant of the word "equipment" for consistency with terminology
27 used throughout this subtitle and this title.

28 Throughout subsection (f) of this section, references to a "match" are
29 substituted for the former references to a "matching dollar amount" and
30 "dollar match" for brevity and consistency throughout the subsection.

31 In the introductory language of subsection (g) of this section, the reference
32 to awarding a grant or loan "to a volunteer company" is added for clarity.

33 In subsection (g)(2) of this section, the former reference to the volunteer
34 company "receiving assistance" is deleted as surplusage.

35 In subsection (h)(2) of this section, the phrase "spent to" is substituted for
36 the former phrase "expended for" for clarity.

1 %In subsection (i) of this section, the reference to a "grant or loan" is
2 substituted for the former reference to "financial assistance" for specificity.

3 Defined terms: "Association" § 8-201

4 "Department" § 8-201

5 "Volunteer company" § 8-201

6 8-205. SAME -- REQUESTS FOR MONEY.

7 (A) SUBMISSION TO ASSOCIATION; CONTENTS.

8 (1) A VOLUNTEER COMPANY SHALL SUBMIT EACH REQUEST FOR MONEY
9 FROM THE EMERGENCY ASSISTANCE TRUST ACCOUNT TO THE ASSOCIATION FOR
10 APPROVAL BY A BOARD OF REVIEW IN ACCORDANCE WITH THE ASSOCIATION'S
11 BYLAWS.

12 (2) EACH REQUEST FOR MONEY SHALL INCLUDE:

13 (I) FINANCIAL STATEMENTS FOR THE 2 FISCAL YEARS
14 IMMEDIATELY PRECEDING THE FISCAL YEAR IN WHICH THE REQUEST IS MADE; AND

15 (II) ANY AVAILABLE AUDIT OF THE FINANCIAL STATEMENTS.

16 (3) FOR EACH REQUEST FOR MONEY FROM THE EMERGENCY
17 ASSISTANCE TRUST ACCOUNT, THE VOLUNTEER COMPANY SHALL CERTIFY THAT
18 THE VOLUNTEER COMPANY APPLIED FOR MONEY FROM ITS LOCAL GOVERNMENT
19 AND WAS DENIED, EITHER WHOLLY OR PARTLY.

20 (B) APPEAL TO PANEL.

21 (1) IF THE ASSOCIATION DISAPPROVES A REQUEST OR DOES NOT TAKE
22 ACTION WITHIN 45 DAYS AFTER THE REQUEST, THE VOLUNTEER COMPANY
23 REQUESTING MONEY MAY APPEAL TO A PANEL COMPOSED OF THE PRESIDENT OF
24 THE ASSOCIATION, THE STATE FIRE MARSHAL, AND THE CHAIRMAN OF THE FIRE
25 AND RESCUE EDUCATION AND TRAINING COMMISSION.

26 (2) THE DECISION OF THE PANEL IS FINAL AND IS NOT SUBJECT TO
27 FURTHER REVIEW.

28 (C) APPROVAL OF REQUEST.

29 ON APPROVAL OF A REQUEST FOR MONEY, THE ASSOCIATION OR THE PANEL
30 SHALL TRANSMIT ITS RECOMMENDATION TO THE DEPARTMENT WITH THE REQUEST
31 FOR MONEY AND ANY OTHER SUPPORTING INFORMATION REQUIRED BY THE
32 DEPARTMENT.

33 (D) REVIEW BY DEPARTMENT OF LEGISLATIVE SERVICES.

34 (1) THE DEPARTMENT SHALL FORWARD EACH REQUEST FOR MONEY
35 FROM THE EMERGENCY ASSISTANCE TRUST ACCOUNT TO THE DEPARTMENT OF
36 LEGISLATIVE SERVICES FOR REVIEW.

1 (2) ON REVIEW OF THE FINANCIAL STATEMENTS, THE DEPARTMENT OF
2 LEGISLATIVE SERVICES MAY ADVISE THE DEPARTMENT IF THE REQUEST FOR
3 MONEY APPEARS JUSTIFIED.

4 (E) AUTHORIZATION OF USE OF MONEY.

5 THE BOARD OF PUBLIC WORKS MAY AUTHORIZE THE USE OF MONEY FROM THE
6 EMERGENCY ASSISTANCE TRUST ACCOUNT ON A RECOMMENDATION BY THE
7 DEPARTMENT IN ACCORDANCE WITH THIS SECTION.

8 (F) DISBURSEMENT OF MONEY.

9 AS AUTHORIZED BY THE BOARD OF PUBLIC WORKS, THE TREASURER SHALL
10 DISBURSE MONEY FROM THE FUND TO A VOLUNTEER COMPANY FOR THE PURPOSES
11 OF THIS SUBTITLE ON WARRANT OF THE COMPTROLLER.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 38A, § 46B(b) through (f).

14 Throughout this section, the word "money" is substituted for the former
15 phrase "financial assistance" and the former word "assistance" for
16 consistency with terminology used throughout this subtitle.

17 In subsection (a)(1) of this section, the reference to a request for money
18 "from the Emergency Assistance Trust Account" is substituted for the
19 former reference to a request "under this subtitle" for clarity and
20 specificity. Similarly, in subsection (d)(1) of this section, the reference to a
21 request "from the Emergency Assistance Trust Account" is added.

22 In subsection (a)(2)(ii) of this section, the reference to "any available" audit
23 is added to express that which was implied in the former law, *i.e.*, that any
24 audit that exists can be submitted for a particular fiscal year. Therefore,
25 the former phrase "if an audit was conducted" is deleted as surplusage.

26 In subsection (a)(3) of this section, the former reference to the denial of
27 "funding for the request" is deleted as surplusage.

28 In subsections (b)(2) and (c) of this section, the word "appeals", which
29 formerly modified the word "panel", is deleted as surplusage.

30 Former Art. 38A, § 46B(a), which provided that former § 46B applied only
31 to the Emergency Assistance Trust Account, is deleted as surplusage given
32 that former § 46B applied only to money from the Emergency Assistance
33 Trust Account.

34 The Public Safety Article Review Committee notes, for consideration by the
35 General Assembly, that subsection (d) of this section requires the
36 Department of Budget and Management to forward to the Department of
37 Legislative Services for review requests for money from the Emergency
38 Assistance Trust Account. This additional level of review contributes little

1 to the process. In addition, review by the Department of Legislative
2 Services is not required for requests for money from the Low Interest
3 Revolving Loan Account.

4 Defined terms: "Association" § 8-201

5 "Department" § 8-201

6 "Fund" § 8-201

7 "Volunteer company" § 8-201

8 8-206. LOW INTEREST REVOLVING LOAN ACCOUNT -- IN GENERAL.

9 (A) "ACCOUNT" DEFINED.

10 IN THIS SECTION, "ACCOUNT" MEANS THE LOW INTEREST REVOLVING LOAN
11 ACCOUNT.

12 (B) ESTABLISHED.

13 THERE IS A LOW INTEREST REVOLVING LOAN ACCOUNT.

14 (C) COMPOSITION.

15 THE ACCOUNT CONSISTS OF MONEY APPROPRIATED IN THE STATE BUDGET TO
16 THE ACCOUNT.

17 (D) USE OF MONEY.

18 THE BOARD OF PUBLIC WORKS MAY AWARD A LOAN FROM THE ACCOUNT TO A
19 VOLUNTEER COMPANY TO ASSIST WITH UP TO 75% OF THE COST OF:

20 (1) PURCHASING OR REFURBISHING EQUIPMENT; AND

21 (2) UPGRADING OR REPLACING FACILITIES NEEDED TO STORE
22 EQUIPMENT.

23 (E) PROHIBITION ON REDUCTION OF LOCAL FUNDING.

24 A LOCAL GOVERNMENT MAY NOT REDUCE THE AMOUNT OF MONEY THAT THE
25 VOLUNTEER COMPANY WOULD OTHERWISE BE ENTITLED TO RECEIVE FROM THE
26 LOCAL GOVERNMENT BECAUSE OF STATE MONEY PROVIDED UNDER THIS SECTION.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 38A, § 46E.

29 In subsection (c) of this section, the phrase "to the Account" is added for
30 consistency with similar provisions throughout this article that relate to
31 the composition of funds.

32 In the introductory language of subsection (d) of this section, the former
33 phrase "to provide a loan" is deleted as surplusage.

1 %In subsection (d)(1) of this section, the word "equipment" is substituted for
2 the former word "apparatus" for consistency with terminology used
3 throughout this subtitle and this title.

4 In subsection (e) of this section, the reference to "this section" is
5 substituted for the former reference to "this Account" for clarity and
6 consistency with § 8-204(f)(2)(ii) of this subtitle.

7 Defined term: "Volunteer company" § 8-201

8 8-207. SAME -- LOAN REQUESTS.

9 (A) RESPONSIBILITIES OF ASSOCIATION.

10 FOR THE PURPOSE OF MAKING LOANS UNDER § 8-206 OF THIS SUBTITLE, THE
11 ASSOCIATION SHALL:

12 (1) DEVELOP LOAN CRITERIA;

13 (2) DEVELOP LOAN TERMS, INCLUDING INTEREST RATES;

14 (3) ESTABLISH A LOW INTEREST REVOLVING LOAN ACCOUNT BOARD;

15 AND

16 (4) RECOMMEND TO THE BOARD OF PUBLIC WORKS THE APPROVAL OR
17 DENIAL OF LOANS.

18 (B) SUBMISSION TO ASSOCIATION; CONTENTS.

19 (1) A VOLUNTEER COMPANY MAY SUBMIT A LOAN REQUEST TO THE
20 ASSOCIATION.

21 (2) EACH LOAN REQUEST SHALL INCLUDE:

22 (I) A DETAILED EXPLANATION OF THE REASONS FOR THE
23 REQUEST;

24 (II) FINANCIAL STATEMENTS FOR THE 2 FISCAL YEARS
25 IMMEDIATELY PRECEDING THE FISCAL YEAR IN WHICH THE LOAN REQUEST IS
26 MADE; AND

27 (III) ANY AVAILABLE AUDIT OF THE FINANCIAL STATEMENTS.

28 (C) LOW INTEREST REVOLVING LOAN ACCOUNT BOARD.

29 (1) THE LOW INTEREST REVOLVING LOAN ACCOUNT BOARD SHALL
30 REVIEW EACH LOAN REQUEST IN ACCORDANCE WITH CRITERIA DEVELOPED BY THE
31 ASSOCIATION UNDER SUBSECTION (A) OF THIS SECTION.

1 (2) THE LOW INTEREST REVOLVING LOAN ACCOUNT BOARD SHALL
2 RECOMMEND TO THE ASSOCIATION THE APPROVAL OR DENIAL OF EACH LOAN
3 REQUEST.

4 (3) (I) THE ASSOCIATION MAY AGREE OR DISAGREE WITH THE
5 RECOMMENDATION OF THE LOW INTEREST REVOLVING LOAN ACCOUNT BOARD.

6 (II) IF THE LOW INTEREST REVOLVING LOAN ACCOUNT BOARD
7 RECOMMENDS TO THE ASSOCIATION THAT A LOAN REQUEST BE DENIED AND THE
8 ASSOCIATION AGREES, THE ASSOCIATION SHALL SEND PROMPTLY TO THE
9 VOLUNTEER COMPANY A WRITTEN NOTICE THAT STATES THAT THE REQUEST HAS
10 BEEN DENIED.

11 (III) IF THE LOW INTEREST REVOLVING LOAN ACCOUNT BOARD
12 RECOMMENDS TO THE ASSOCIATION THAT A LOAN REQUEST BE APPROVED AND THE
13 ASSOCIATION AGREES, THE ASSOCIATION SHALL SUBMIT THE LOAN REQUEST TO
14 THE BOARD OF PUBLIC WORKS FOR APPROVAL.

15 (D) APPROVAL BY BOARD OF PUBLIC WORKS.

16 ON FINAL APPROVAL BY THE BOARD OF PUBLIC WORKS, THE LOAN SHALL BE
17 MADE TO THE REQUESTING VOLUNTEER COMPANY.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 38A, §§ 46F and 46G.

20 In subsection (a)(2) of this section, the former reference to the
21 "establishment of" interest rates is deleted as included in the requirement
22 to develop loan terms.

23 In subsection (b)(1) of this section, the former phrase "for financial
24 assistance" is deleted as implicit in the reference to a "loan".

25 In subsection (b)(2)(iii) of this section, the reference to "any available"
26 audit is added to express that which was implied in the former law, *i.e.*,
27 that any audit that exists can be submitted for a particular fiscal year.
28 Therefore, the former phrase "if an audit was conducted" is deleted as
29 surplusage.

30 In subsection (c)(1) of this section, the reference to criteria "developed by
31 the Association under subsection (a) of this section" is substituted for the
32 former reference to criteria "developed under § 46F of this subtitle" for
33 clarity and precision.

34 Also in subsection (c)(1) of this section, the former reference to the Board
35 "established by the Association under § 46F of this subtitle" is deleted as
36 surplusage. The Low Interest Revolving Loan Account Board is established
37 under subsection (a) of this section.

38 Also in subsection (c)(1) of this section, the former reference to each loan

1 request "received by a volunteer company" is deleted as misleading
2 because volunteer companies make loan requests and the Association
3 receives them.

4 In subsection (c)(2) of this section, the word "denial" is substituted for the
5 former word "rejection" to conform to language used in subsection (a)(4) of
6 this section. Similarly, in subsection (c)(3)(ii) of this section, the references
7 to a loan request being "denied" are substituted for the former references
8 to the request being "rejected".

9 Defined terms: "Association" § 8-201

10 "Volunteer company" § 8-201

11 8-208. ANNUAL APPROPRIATION.

12 (A) IN GENERAL.

13 AFTER CONSULTATION WITH THE ASSOCIATION, THE GOVERNOR MAY INCLUDE
14 IN THE STATE BUDGET EACH YEAR AN AMOUNT FOR THE PURPOSES SET FORTH IN
15 SUBSECTION (B) OF THIS SECTION.

16 (B) USE OF MONEY.

17 THE ASSOCIATION MAY USE MONEY APPROPRIATED UNDER SUBSECTION (A) OF
18 THIS SECTION TO:

19 (1) FORMULATE, PUBLISH, AND DISTRIBUTE THE FIRE LAWS OF
20 MARYLAND;

21 (2) FORMULATE, PUBLISH, AND DISTRIBUTE AN ANNUAL REPORT AND
22 MONTHLY OR OTHER TIMELY BULLETINS AND REPORTS;

23 (3) PUBLISH AND DISTRIBUTE FIRE PREVENTION MATERIAL;

24 (4) KEEP RECORDS THAT RELATE TO THE ANNUAL INSPECTIONS OF
25 FIRE AND RESCUE EQUIPMENT AND FACILITIES; AND

26 (5) ESTABLISH AND MAINTAIN A DATABASE ON MANPOWER
27 AVAILABILITY AND TRAINING, OPERATIONAL COST, EQUIPMENT AVAILABILITY,
28 RESPONSE TIME, STATE AND LOCAL FINANCIAL SUPPORT, AND OTHER RELEVANT
29 FACTORS IN PROVIDING FIRE AND RESCUE SERVICES.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 38A, § 46D.

32 In the introductory language of subsection (b) of this section, the former
33 phrase "administered by the Association" is deleted as surplusage in light
34 of the reference to the Association "us[ing] money appropriated" to the
35 Fund.

36 In subsection (b)(4) of this section, the former word "apparatus" is deleted

1 as redundant of the word "equipment" for consistency with terminology
2 used throughout this subtitle and this title. Consequently, in subsection
3 (b)(5) of this section, the word "equipment" is substituted for the former
4 word "apparatus" for consistency.

5 Defined term: "Association" § 8-201

6 8-209. ANNUAL REPORTS BY ASSOCIATION.

7 (A) IN GENERAL.

8 ON OR BEFORE AUGUST 30 OF EACH FISCAL YEAR, THE ASSOCIATION SHALL
9 SUBMIT TO THE DEPARTMENT AND TO THE BOARD OF PUBLIC WORKS A REPORT
10 THAT INCLUDES FOR THE PREVIOUS FISCAL YEAR:

11 (1) THE NUMBER OF LOANS MADE;

12 (2) EACH VOLUNTEER COMPANY THAT RECEIVED A LOAN AND THE
13 AMOUNT OF THE LOAN;

14 (3) THE SPECIFIC PURPOSE FOR MAKING EACH LOAN; AND

15 (4) FOR EACH VOLUNTEER COMPANY THAT RECEIVED A LOAN:

16 (I) THE FINANCIAL STATEMENT OF THE VOLUNTEER COMPANY
17 FOR THE FISCAL YEAR IN WHICH THE MONEY WAS RECEIVED; AND

18 (II) DOCUMENTATION OF THE VOLUNTEER COMPANY'S ACTUAL
19 EXPENDITURES.

20 (B) REVIEW BY DEPARTMENT.

21 THE DEPARTMENT SHALL:

22 (1) REVIEW EACH FINANCIAL STATEMENT AND THE DOCUMENTATION
23 SUBMITTED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION TO
24 DETERMINE IF THE MONEY WAS SPENT IN ACCORDANCE WITH THE REQUEST FOR
25 MONEY APPROVED BY THE BOARD OF PUBLIC WORKS; AND

26 (2) REPORT THE FINDINGS TO THE SENATE BUDGET AND TAXATION
27 COMMITTEE AND THE HOUSE APPROPRIATIONS COMMITTEE.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 38A, § 46H.

30 In the introductory language of subsection (a) of this section, the phrase
31 "[o]n or before" August 30 is substituted for the former reference to "by"
32 August 30 for clarity and consistency with style in the revised articles of
33 the Code.

34 In subsection (a)(1) through (3) of this section, the former phrase "during

1 the fiscal year" is deleted as surplusage in light of the introductory
2 language of subsection (a) of this section, which requires the report to
3 include information for the previous fiscal year.

4 In subsection (a)(2) of this section, the reference to "each volunteer
5 company" that received a loan is substituted for the former reference to the
6 "entities" that received a loan because only volunteer companies receive
7 loans under this subtitle.

8 In subsection (b)(1) of this section, the word "money" is substituted for the
9 former phrase "financial assistance" for consistency with terminology used
10 throughout this subtitle.

11 Also in subsection (b)(1) of this section, the word "spent" is substituted for
12 the former word "expended" for clarity.

13 The Public Safety Article Review Committee notes, for consideration by the
14 General Assembly, that the reporting requirement only applies to loans,
15 but grants may also be awarded under this subtitle. *See* § 8-204(g) of this
16 subtitle. The absence of a reporting requirement for grants may be an
17 oversight.

18 Defined terms: "Association" § 8-201

19 "Department" § 8-201

20 "Volunteer company" § 8-201

21 SUBTITLE 3. COUNTY MONEY AND LOANS FOR VOLUNTEER FIRE COMPANIES.

22 8-301. CONTRIBUTION OF MONEY TO VOLUNTEER FIRE COMPANIES -- IN GENERAL.

23 (A) SCOPE OF SECTION.

24 THE SECTION DOES NOT APPLY TO ANNE ARUNDEL COUNTY, BALTIMORE
25 COUNTY, CECIL COUNTY, HOWARD COUNTY, PRINCE GEORGE'S COUNTY, QUEEN
26 ANNE'S COUNTY, AND WORCESTER COUNTY.

27 (B) EXPRESS POWER.

28 THE COUNTY COMMISSIONERS OF EACH COUNTY HAVE THE EXPRESS POWER
29 TO CONTRIBUTE MONEY TO A VOLUNTEER FIRE COMPANY IN THE COUNTY.

30 REVISOR'S NOTE: Subsection (a) of this section is new language added to
31 reference the exceptions to the express powers of the county commissioners
32 as provided in Art. 25, § 3(a)(2).

33 Subsection (b) of this section is new language derived without substantive
34 change from former Art. 25, § 3(a)(1) and (w).

35 In subsection (b) of this section, the reference to "money" is substituted for
36 the former reference to "funds" for consistency with terminology used

1 throughout this title and this article.

2 Also in subsection (b) of this section, the reference to a "fire company" is
3 substituted for the former reference to "fire departments" for consistency
4 within this title.

5 The Public Safety Article Review Committee notes, for consideration by the
6 General Assembly, that of the counties listed as excepted from the scope of
7 this section, Anne Arundel, Baltimore, Howard, and Prince George's
8 counties are charter counties and have county councils. Cecil County is a
9 commission county and is governed by a board of county commissioners.
10 Queen Anne's and Worcester counties are code home rule counties and
11 retain boards of county commissioners as their governing bodies.

12 Defined term: "County" § 1-101

13 8-302. SAME -- DORCHESTER COUNTY.

14 (A) SCOPE OF SECTION.

15 THIS SECTION APPLIES ONLY TO DORCHESTER COUNTY.

16 (B) MONEY FOR VOLUNTEER FIRE COMPANIES.

17 (1) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, THE COUNTY
18 COMMISSIONERS OF DORCHESTER COUNTY SHALL PAY AT LEAST THE SUM OF
19 \$118,500 EACH YEAR TO THE VOLUNTEER FIRE COMPANIES IN THE COUNTY FOR
20 THEIR BENEFIT AS LONG AS THE VOLUNTEER FIRE COMPANIES ARE ACTIVE,
21 FIRE-FIGHTING ORGANIZATIONS.

22 (2) EACH VOLUNTEER FIRE COMPANY SHALL USE THE MONEY
23 RECEIVED TO SUPPORT, MAINTAIN, EQUIP, AND OPERATE THE VOLUNTEER FIRE
24 COMPANY FOR THE PURPOSE OF FIGHTING FIRES IN THE COUNTY.

25 (3) EACH VOLUNTEER FIRE COMPANY SHALL COMPLY WITH THE
26 BYLAWS OF THE VOLUNTEER FIRE COMPANIES ASSOCIATION OF DORCHESTER
27 COUNTY.

28 (4) THE COUNTY COMMISSIONERS MAY NOT MAKE A PAYMENT TO A
29 VOLUNTEER FIRE COMPANY UNLESS THE VOLUNTEER FIRE COMPANY COMPLIES
30 WITH THE BYLAWS OF THE VOLUNTEER FIRE COMPANIES ASSOCIATION OF
31 DORCHESTER COUNTY.

32 (C) USE OF PROPERTY TAX REVENUE.

33 THE COUNTY COMMISSIONERS SHALL USE PROPERTY TAX REVENUE TO PAY
34 VOLUNTEER FIRE COMPANIES IN ACCORDANCE WITH SUBSECTION (B) OF THIS
35 SECTION.

36 (D) DISTRIBUTION OF MONEY.

1 (1) THE COUNTY COMMISSIONERS SHALL DISTRIBUTE THE MONEY
 2 REQUIRED BY SUBSECTION (B) OF THIS SECTION ON OCTOBER 1 OF EACH YEAR TO
 3 THE FOLLOWING VOLUNTEER FIRE COMPANIES IN AT LEAST THE FOLLOWING
 4 AMOUNTS:

5 CAMBRIDGE	\$10,500
6 HURLOCK	9,500
7 SECRETARY	9,000
8 VIENNA	9,000
9 EAST NEW MARKET	8,000
10 ELDORADO	7,500
11 NECK	7,500
12 LLOYDS	7,500
13 LAKES & STRAITS	8,500
14 CHURCH CREEK	8,500
15 MADISON	8,500
16 HOOPERS ISLAND	8,500
17 LINKWOOD-SALEM	7,500
18 TAYLORS ISLAND	8,500

19 (2) THE ELLIOTTS VOLUNTEER FIRE COMPANY SHALL RECEIVE AN
 20 AMOUNT SET BY THE COUNTY COMMISSIONERS.

21 (E) EVIDENCE REQUIRED TO RECEIVE MONEY.

22 (1) BEFORE PAYING MONEY TO A VOLUNTEER FIRE COMPANY, THE
 23 COUNTY COMMISSIONERS MAY REQUIRE THE OFFICERS OF THE VOLUNTEER FIRE
 24 COMPANY TO APPEAR BEFORE THE COUNTY COMMISSIONERS AND SUBMIT
 25 EVIDENCE SATISFACTORY TO THE COUNTY COMMISSIONERS THAT THE VOLUNTEER
 26 FIRE COMPANY:

27 (I) IS AN ACTIVE FIRE-FIGHTING ORGANIZATION; AND

28 (II) HAS SPENT THE MONEY RECEIVED IN PRIOR YEARS UNDER
 29 THIS SECTION IN ACCORDANCE WITH THIS SECTION.

30 (2) IF A VOLUNTEER FIRE COMPANY CEASES TO BE AN ACTIVE
 31 FIRE-FIGHTING ORGANIZATION OR FAILS TO SPEND THE MONEY RECEIVED IN
 32 ACCORDANCE WITH THIS SECTION, THE COUNTY COMMISSIONERS SHALL:

33 (I) WITHHOLD THE CURRENT YEAR'S MONEY FROM THE
 34 VOLUNTEER FIRE COMPANY; AND

1 (II) ALLOCATE THE UNSPENT MONEY TO THE CONTINGENT FUND
2 OF DORCHESTER COUNTY.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 25, § 3(w-1).

5 Throughout this section, the term "volunteer fire company" is substituted
6 for the former references to "fire companies" and "companies" for
7 consistency throughout this section.

8 Subsection (a) of this section is revised to clarify the scope of this section. It
9 is based on the reference in former Art. 25, § 3(w-1)(1) to the County
10 Commissioners of Dorchester County.

11 In subsection (c) of this section, the phrase "shall use property tax revenue"
12 is substituted for the former phrase "shall levy each year on the assessable
13 property" for clarity.

14 Also in subsection (c) of this section, the former phrase "as determined by
15 the County Commissioners in accordance with this subsection" is deleted
16 as surplusage.

17 In subsection (e)(1) of this section, the phrase "submit evidence satisfactory
18 to the County Commissioners" is substituted for the former phrase "show
19 to the satisfaction of the Commissioners" for brevity and clarity.

20 Subsection (e)(2)(i) of this section is revised to state expressly that which
21 was implied in the former law, *i.e.*, in order to allocate a volunteer fire
22 company's money to the contingent fund, the County Commissioners must
23 first withhold the money from the volunteer fire company.

24 8-303. GUARANTEE OF LOANS TO VOLUNTEER FIRE COMPANIES.

25 (A) SCOPE OF SECTION.

26 THIS SECTION APPLIES TO ALLEGANY COUNTY, CALVERT COUNTY, CHARLES
27 COUNTY, FREDERICK COUNTY, GARRETT COUNTY, KENT COUNTY, AND ST. MARY'S
28 COUNTY.

29 (B) EXPRESS POWER.

30 THE COUNTY COMMISSIONERS OF A COUNTY SUBJECT TO THIS SECTION HAVE
31 THE EXPRESS POWER TO GUARANTEE OR INSURE FINANCIAL LOANS MADE BY A
32 GOVERNMENTAL THIRD PARTY TO A VOLUNTEER FIRE COMPANY THAT:

33 (1) IS LOCATED WITHIN THE COUNTY; OR

34 (2) HAS A MUTUAL AID AGREEMENT WITH THE COUNTY.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 25, § 3(a)(1) and (gg).

1 %In the introductory language of subsection (b) of this section, the reference
 2 to a "fire company" is substituted for the former reference to a "fire
 3 department" for consistency within this title.

4 Defined term: "County" § 1-101

5 TITLE 9. FIRE PROTECTION AND PREVENTION.

6 SUBTITLE 1. SMOKE DETECTION SYSTEMS.

7 9-101. SCOPE OF SUBTITLE.

8 (A) APPLICABILITY IN BALTIMORE CITY.

9 (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THIS
 10 SUBTITLE APPLIES IN BALTIMORE CITY.

11 (2) IN BALTIMORE CITY, THE BALTIMORE CITY FIRE DEPARTMENT
 12 SHALL ENFORCE THIS SUBTITLE.

13 (3) IN BALTIMORE CITY, APPEALS CONCERNING THIS SUBTITLE SHALL
 14 BE MADE TO THE BALTIMORE CITY FIRE BOARD.

15 (B) EFFECT OF SUBTITLE.

16 THIS SUBTITLE DOES NOT AFFECT A PUBLIC LOCAL LAW OR REGULATION THAT
 17 EXISTED ON JULY 1, 1982, THAT REQUIRED SMOKE DETECTORS IN OCCUPANCIES
 18 WITH LESS THAN TEN DWELLING UNITS.

19 REVISOR'S NOTE: This section is new language derived without substantive
 20 change from former Art. 38A, § 12A(l) and (m).

21 In subsection (a)(1) of this section, the reference to "this article" is retained
 22 in the revision although the Public Safety Article includes provisions from
 23 articles other than former Article 38A. No substantive change results
 24 because this subtitle applies in Baltimore City regardless of any other
 25 provisions in the Public Safety Article.

26 In subsection (a)(2) and (3) of this section, the references to the "Baltimore
 27 City" fire department and the "Baltimore City" fire board, respectively, are
 28 added for clarity.

29 In subsection (b) of this section, the general reference to "[t]his subtitle" is
 30 substituted for the former specific reference to "subsections (a) through (l)
 31 of this section". This revised subtitle contains all of former Art. 38A, § 12A,
 32 which included subsections (a) through (q). However, former Art. 38A, §
 33 12A(n) through (q) applied only to new residential dwelling units for which
 34 building permits were issued on or after January 1, 1989, or July 1, 1990,
 35 and required detectors in those units. The substitution of the reference to
 36 "this subtitle" therefore may expand the scope of the revised provision. No

1 substantive change is intended.

2 9-102. INSTALLATION OF SMOKE DETECTORS REQUIRED.

3 (A) IN GENERAL.

4 (1) EACH SLEEPING AREA WITHIN EACH OCCUPANCY CLASSIFIED
5 RESIDENTIAL, AS DEFINED IN THE MOST RECENT EDITION OF THE NATIONAL FIRE
6 PROTECTION ASSOCIATION LIFE SAFETY CODE ADOPTED BY THE STATE FIRE
7 PREVENTION COMMISSION, SHALL BE EQUIPPED WITH AT LEAST ONE APPROVED
8 SMOKE DETECTOR THAT:

9 (I) SENSES VISIBLE OR INVISIBLE PARTICLES OF COMBUSTION;
10 AND

11 (II) IS INSTALLED IN A MANNER AND LOCATION APPROVED BY THE
12 STATE FIRE PREVENTION COMMISSION.

13 (2) WHEN ACTIVATED, THE SMOKE DETECTOR SHALL PROVIDE AN
14 ALARM SUITABLE TO WARN THE OCCUPANTS.

15 (B) LANDLORDS AND TENANTS.

16 (1) THE LANDLORD SHALL INSTALL SMOKE DETECTORS AS REQUIRED
17 UNDER SUBSECTION (A) OF THIS SECTION.

18 (2) ON WRITTEN NOTIFICATION BY CERTIFIED MAIL BY THE TENANT OR
19 ON NOTIFICATION IN PERSON BY THE TENANT, THE LANDLORD SHALL REPAIR OR
20 REPLACE THE SMOKE DETECTOR.

21 (3) IF THE TENANT PERSONALLY NOTIFIES THE LANDLORD OF THE
22 FAILURE OF A SMOKE DETECTOR, THE LANDLORD SHALL PROVIDE A WRITTEN
23 RECEIPT ACKNOWLEDGING THE NOTIFICATION.

24 (4) A TENANT MAY NOT REMOVE A SMOKE DETECTOR OR RENDER A
25 SMOKE DETECTOR INOPERATIVE.

26 (5) EXCEPT FOR HOTELS OR MOTELS, A LANDLORD MAY REQUIRE A
27 REFUNDABLE DEPOSIT FOR A SMOKE DETECTOR NOT EXCEEDING THE VALUE OF
28 THE SMOKE DETECTOR.

29 (6) ON WRITTEN REQUEST OF A TENANT WHO IS DEAF OR HEARING
30 IMPAIRED, THE LANDLORD SHALL PROVIDE A SMOKE DETECTOR THAT, WHEN
31 ACTIVATED, PROVIDES A SIGNAL THAT:

32 (I) IS APPROVED BY A NATIONALLY RECOGNIZED TESTING
33 LABORATORY FOR ELECTRICAL APPLIANCES; AND

34 (II) IS SUFFICIENT TO WARN THE DEAF OR HEARING IMPAIRED
35 TENANT.

1 (C) HOTELS AND MOTELS.

2 (1) REGARDLESS OF THE NUMBER OF UNITS, EACH HOTEL OR MOTEL
3 SHALL HAVE AVAILABLE AT LEAST ONE SMOKE DETECTOR FOR THE DEAF OR
4 HEARING IMPAIRED FOR EACH 50 UNITS OR FRACTION OF 50 UNITS.

5 (2) THE HOTEL OR MOTEL MAY REQUIRE A REFUNDABLE DEPOSIT FOR A
6 PORTABLE SMOKE DETECTOR NOT EXCEEDING THE VALUE OF THE SMOKE
7 DETECTOR.

8 (3) THE HOTEL OR MOTEL SHALL POST IN A CONSPICUOUS PLACE AT
9 THE REGISTRATION DESK A PERMANENT SIGN THAT STATES THE AVAILABILITY OF
10 SMOKE DETECTORS FOR THE DEAF OR HEARING IMPAIRED.

11 (D) RESIDENTIAL DWELLINGS.

12 ON OR BEFORE JULY 1, 1982, AN OCCUPANT OF A ONE, TWO, OR THREE FAMILY
13 RESIDENTIAL DWELLING CONSTRUCTED BEFORE JULY 1, 1975, SHALL:

14 (1) EQUIP EACH OCCUPANT'S LIVING UNIT WITH AT LEAST ONE
15 APPROVED BATTERY OR ALTERNATING CURRENT (AC) PRIMARY ELECTRIC POWERED
16 SMOKE DETECTOR; AND

17 (2) MAINTAIN THE SMOKE DETECTOR.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 38A, § 12A(a)(1), (3), and (4) and (b).

20 In subsection (a)(1) of this section, the reference to the "most recent
21 edition" of the National Fire Protection Association Life Safety Code
22 "adopted by the State Fire Prevention Commission" is substituted for the
23 former obsolete reference to the "1988 Edition" for accuracy and to
24 accommodate reference to future editions of the NFPA Life Safety Code.

25 In subsections (a)(2) and (b)(2) of this section, the references to a "smoke"
26 detector are added for clarity and consistency. Similarly, in subsection
27 (b)(3) of this section, the reference to failure "of a smoke detector" is added.

28 In subsection (b)(3) of this section, the former reference to the "mechanical"
29 failure of a smoke detector is deleted to accommodate electronic and other
30 kinds of failures. The Public Safety Article Review Committee calls this
31 deletion to the attention of the General Assembly.

32 In the introductory language of subsection (b)(6) of this section, the
33 reference to a "tenant" is substituted for the former phrase "[w]here an
34 occupancy is occupied by a person" for consistency with terminology used
35 throughout subsection (b) of this section. Similarly, in subsection (b)(6)(ii)
36 of this section, the reference to a "tenant" is substituted for the former
37 reference to an "individual".

1 %In subsection (c)(2) and (3) of this section, the references to a "hotel or
2 motel" are substituted for the former references to the "proprietor" for
3 clarity and consistency with subsection (c)(1) of this section.

4 In subsection (c)(3) of this section, the reference to smoke detectors for the
5 "deaf" is added for consistency with subsection (c)(1) of this section.

6 Also in subsection (c)(3) of this section, the former reference to a "counter"
7 is deleted as implicit in the reference to the "registration desk".

8 Former Art. 38A, § 12A(a)(2), which required smoke detectors to be
9 installed in hotels and multifamily buildings by specified dates, all of
10 which are prior to January 1, 1984, is deleted as obsolete because the dates
11 for compliance have passed.

12 9-103. CONSTRUCTION OF NEW RESIDENTIAL DWELLING UNITS.

13 (A) MINIMUM NUMBER OF SMOKE DETECTORS.

14 AT LEAST ONE SMOKE DETECTOR SHALL BE INSTALLED ON EACH LEVEL,
15 INCLUDING A BASEMENT BUT EXCLUDING AN ATTIC, OF EACH NEW RESIDENTIAL
16 DWELLING UNIT:

17 (1) THAT CONTAINS ALTERNATING CURRENT (AC) ELECTRICAL
18 SERVICE;

19 (2) THAT IS CLASSIFIED RESIDENTIAL, AS DEFINED IN THE MOST
20 RECENT EDITION OF THE NATIONAL FIRE PROTECTION ASSOCIATION LIFE SAFETY
21 CODE ADOPTED BY THE STATE FIRE PREVENTION COMMISSION; AND

22 (3) FOR WHICH A BUILDING PERMIT IS ISSUED FOR NEW
23 CONSTRUCTION ON OR AFTER JANUARY 1, 1989.

24 (B) ACTIVATION OF MULTIPLE SMOKE DETECTORS.

25 IF TWO OR MORE SMOKE DETECTORS ARE REQUIRED UNDER SUBSECTION (A)
26 OF THIS SECTION, THE SMOKE DETECTORS SHALL BE OF A TYPE AND INSTALLED IN
27 A MANNER SO THAT ACTIVATION OF ONE SMOKE DETECTOR CAUSES ACTIVATION OF
28 ALL OTHER REQUIRED SMOKE DETECTORS IN THE RESIDENTIAL DWELLING UNIT.

29 (C) OPERATION BY BATTERY AND ELECTRIC POWER.

30 A SMOKE DETECTOR REQUIRED UNDER THIS SUBTITLE SHALL OPERATE BOTH
31 BY BATTERY AND ON AN ALTERNATING CURRENT (AC) PRIMARY SOURCE OF
32 ELECTRIC POWER IF THE SMOKE DETECTOR IS INSTALLED IN A NEW RESIDENTIAL
33 DWELLING UNIT:

34 (1) THAT CONTAINS ALTERNATING CURRENT (AC) ELECTRICAL
35 SERVICE;

1 (2) THAT IS DESIGNED TO BE OCCUPIED BY ONE OR MORE FAMILIES;
2 AND

3 (3) FOR WHICH A BUILDING PERMIT IS ISSUED FOR NEW
4 CONSTRUCTION ON OR AFTER JULY 1, 1990.

5 (D) ENFORCEMENT OF SECTION; ENACTMENT OF MORE STRINGENT LAWS.

6 THIS SECTION:

7 (1) MAY BE ENFORCED BY A COUNTY FIRE CHIEF, FIRE
8 ADMINISTRATOR, OR MUNICIPAL FIRE CHIEF; AND

9 (2) DOES NOT PREVENT A COUNTY FROM ENACTING MORE STRINGENT
10 LAWS THAT RELATE TO SMOKE DETECTORS.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 38A, § 12A(n), (o), (p), and (q).

13 In subsection (a)(2) of this section, the reference to the "most recent
14 edition" of the National Fire Protection Association Life Safety Code
15 "adopted by the State Fire Prevention Commission" is substituted for the
16 former obsolete reference to the "1985 Edition" for accuracy and to
17 accommodate reference to future editions of the NFPA Life Safety Code.

18 In the introductory language of subsection (c) of this section, the former
19 requirement that a smoke detector be "of a type" is deleted as surplusage.

20 Defined term: "County" § 1-101

21 9-104. GENERAL REQUIREMENTS FOR SMOKE DETECTORS.

22 (A) ALTERNATING CURRENT PRIMARY SOURCE OF ELECTRIC POWER;
23 EXCEPTIONS.

24 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND §
25 9-102(D) OF THIS SUBTITLE, SMOKE DETECTION SYSTEMS SHALL OPERATE ON AN
26 ALTERNATING CURRENT (AC) PRIMARY SOURCE OF ELECTRIC POWER.

27 (2) SMOKE DETECTION SYSTEMS MAY OPERATE ON APPROVED POWER
28 SUPPLIES OTHER THAN AN ALTERNATING CURRENT (AC) PRIMARY SOURCE OF
29 ELECTRIC POWER IF:

30 (I) THE POWER SUPPLY IS APPROVED BY THE STATE FIRE
31 PREVENTION COMMISSION; AND

32 (II) IT IS CLEARLY EVIDENT THAT REASONABLE SAFETY IS
33 SECURED.

34 (B) LINEAL OR SQUARE FOOTAGE ALLOWANCES.

1 EACH APPROVED SMOKE DETECTOR SHALL BE INSTALLED SO AS NOT TO
2 EXCEED THE LINEAL OR SQUARE FOOTAGE ALLOWANCES SPECIFIED FOR THE
3 SMOKE DETECTOR, BASED ON THE GENERALLY ACCEPTED TEST STANDARDS UNDER
4 WHICH THE SMOKE DETECTOR WAS TESTED AND APPROVED.

5 (C) APPROVAL AND USE.

6 SMOKE DETECTION SYSTEMS, INCLUDING SPECIALIZED SMOKE DETECTORS
7 FOR THE DEAF AND HEARING IMPAIRED, SHALL BE APPROVED FOR THE PARTICULAR
8 SYSTEM AND SHALL ONLY BE USED FOR DETECTION AND SIGNALING IN THE EVENT
9 OF FIRE.

10 (D) LEASES FOR RESIDENTIAL DWELLING UNITS.

11 EACH LEASE FOR AN EXISTING RESIDENTIAL DWELLING UNIT THAT CONTAINS
12 ALTERNATING CURRENT (AC) ELECTRIC SERVICE SHALL CONTAIN A DISCLOSURE IN
13 10-POINT BOLD TYPE THAT STATES:

14 "THIS RESIDENTIAL DWELLING UNIT CONTAINS ALTERNATING CURRENT (AC)
15 ELECTRIC SERVICE. IN THE EVENT OF A POWER OUTAGE, AN ALTERNATING
16 CURRENT (AC) POWERED SMOKE DETECTOR WILL NOT PROVIDE AN ALARM.
17 THEREFORE, THE OCCUPANT SHOULD OBTAIN A DUAL POWERED SMOKE DETECTOR
18 OR A BATTERY POWERED SMOKE DETECTOR."

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 38A, § 12A(e), (f), (g), (h), and (r).

21 In subsection (b) of this section, the reference to a "smoke detector" is
22 substituted for the former reference to "smoke detecting devices" for
23 consistency with terminology used throughout this subtitle.

24 9-105. SALE AND INSTALLATION OF SMOKE DETECTORS.

25 (A) COMPLIANCE WITH STATE FIRE PREVENTION CODE.

26 A PERSON MAY SELL OR INSTALL A SMOKE DETECTION SYSTEM OR
27 SPECIALIZED SMOKE DETECTORS FOR THE DEAF AND HEARING IMPAIRED ONLY IN
28 ACCORDANCE WITH THE STATE FIRE PREVENTION CODE.

29 (B) MANUFACTURERS TO OBTAIN APPROVAL.

30 (1) EACH MANUFACTURER COMMERCIALY SELLING OR OFFERING FOR
31 SALE SMOKE DETECTION SYSTEMS IN THE STATE SHALL OBTAIN APPROVAL OF EACH
32 MODEL OF SMOKE DETECTOR FROM THE STATE FIRE MARSHAL.

33 (2) AN APPLICATION FOR APPROVAL OF EACH MODEL OF SMOKE
34 DETECTOR SHALL BE:

35 (I) SUBMITTED IN THE MANNER REQUIRED BY THE STATE FIRE
36 MARSHAL; AND

1 (II) ACCOMPANIED BY A FEE OF \$25.

2 REVISOR'S NOTE: This section is new language derived without substantive
3 change from former Art. 38A, § 12A(i) and (j).

4 In subsection (a) of this section, the reference to the "State Fire Prevention
5 Code" is substituted for the former reference to the "State of Maryland Fire
6 Prevention Code regulations" for consistency with terminology used in §
7 6-206 of this article.

8 Defined term: "Person" § 1-101

9 9-106. SPRINKLER SYSTEMS.

10 (A) IN GENERAL.

11 IF APPROVED BY THE STATE FIRE PREVENTION COMMISSION, AN APPROVED
12 AUTOMATIC FIRE SPRINKLER SYSTEM MAY BE INSTALLED INSTEAD OF A SMOKE
13 DETECTION SYSTEM.

14 (B) EFFECT ON OTHER REQUIREMENTS.

15 INSTALLING AN APPROVED AUTOMATIC FIRE SPRINKLER SYSTEM DOES NOT
16 NULLIFY THE OTHER REQUIREMENTS OF THE STATE FIRE PREVENTION CODE OR
17 EXEMPT AN OCCUPANCY FROM OTHER REQUIREMENTS THAT ARE CLEARLY
18 APPLICABLE UNDER THE STATE FIRE PREVENTION CODE.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 38A, § 12A(k).

21 In subsection (b) of this section, the references to "the State Fire
22 Prevention Code" are substituted for the references to "the code" and "the
23 text of the code" for clarity and accuracy.

24 9-107. PROPERTY INSURANCE CLAIMS.

25 FAILURE TO COMPLY WITH THIS SUBTITLE MAY NOT BE USED AS A POLICY
26 DEFENSE IN THE SETTLEMENT OF A PROPERTY INSURANCE CLAIM.

27 REVISOR'S NOTE: This section formerly was Art. 38A, § 12A(d).

28 The only changes are in style.

29 9-108. SMOKE DETECTION INSTALLATION ORDER.

30 (A) IN GENERAL.

31 IF AFTER INVESTIGATING A FIRE IN A ONE, TWO, OR THREE FAMILY
32 RESIDENTIAL DWELLING THE STATE FIRE MARSHAL OR LOCAL INVESTIGATING
33 AUTHORITY FINDS THE ABSENCE OF REQUIRED SMOKE DETECTORS, THE STATE

1 FIRE MARSHAL OR LOCAL INVESTIGATING AUTHORITY SHALL ISSUE TO THE
2 OCCUPANT A SMOKE DETECTION INSTALLATION ORDER.

3 (B) FAILURE TO COMPLY WITH ORDER.

4 A PERSON MAY NOT FAIL TO COMPLY WITH A SMOKE DETECTION
5 INSTALLATION ORDER WITHIN 15 DAYS OF REOCCUPANCY.

6 (C) PENALTY.

7 (1) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS
8 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
9 EXCEEDING \$50.

10 (2) THE PENALTY PROVISION OF § 9-109 OF THIS SUBTITLE DOES NOT
11 APPLY TO THIS SECTION.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 38A, § 12A(c).

14 In subsection (a) of this section, the reference to a "one, two, or three
15 family" residential dwelling is substituted for the former reference to a
16 residential dwelling "place described in subsection (b) of this section" to
17 conform to language used in § 9-102(d) of this subtitle.

18 In subsection (c)(1) of this section, the reference to a person who violates
19 this section being guilty "of a misdemeanor" is added to state expressly
20 that which was only implied in the former law. In this State, any crime
21 that was not a felony at common law and has not been declared a felony by
22 statute is considered to be a misdemeanor. *See State v. Canova*, 278 Md.
23 483, 490 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Dutton v. State*,
24 123 Md. 373, 378 (1914); and *Williams v. State*, 4 Md. App. 342, 347 (1968).

25 Also in subsection (c)(1) of this section, the reference to a person "on
26 conviction" being subject to certain penalties is added to state expressly
27 that which was only implied in the former law, and for consistency with
28 other penalty provisions in this and other revised articles of the Code.

29 Defined term: "Person" § 1-101

30 9-109. VIOLATION OF SUBTITLE.

31 (A) PROHIBITED.

32 A PERSON MAY NOT KNOWINGLY VIOLATE THIS SUBTITLE.

33 (B) PENALTY.

34 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
35 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 DAYS OR A FINE
36 NOT EXCEEDING \$1,000 OR BOTH.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 38A, § 13(a), except as it related to violations of
3 regulations.

4 In subsection (b) of this section, the reference to a person who violates this
5 section being guilty "of a misdemeanor" is added to state expressly that
6 which was only implied in the former law. In this State, any crime that was
7 not a felony at common law and has not been declared a felony by statute
8 is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490
9 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Dutton v. State*, 123 Md.
10 373, 378 (1914); and *Williams v. State*, 4 Md. App. 342, 347 (1968).

11 Also in subsection (b) of this section, the reference to a person "on
12 conviction" being subject to certain penalties is added to state expressly
13 that which was only implied in the former law, and for consistency with
14 other penalty provisions in this and other revised articles of the Code.

15 Defined term: "Person" § 1-101

16 SUBTITLE 2. SPRINKLER SYSTEMS.

17 9-201. DEFINITIONS.

18 (A) IN GENERAL.

19 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

20 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 12B(a)(1).

21 The reference to this "subtitle" is substituted for the former reference to
22 this "section" to reflect the reorganization of former § 12B as a subtitle in
23 this revision.

24 No other changes are made.

25 (B) DORMITORY.

26 (1) "DORMITORY" MEANS A BUILDING OR SPACE IN A BUILDING THAT:

27 (I) IS UNDER JOINT OCCUPANCY AND SINGLE MANAGEMENT; AND

28 (II) PROVIDES GROUP SLEEPING ACCOMMODATIONS:

29 1. WITH OR WITHOUT MEALS, BUT WITHOUT INDIVIDUAL
30 COOKING FACILITIES;

31 2. FOR MORE THAN 16 INDIVIDUALS WHO ARE NOT
32 MEMBERS OF THE SAME FAMILY GROUP; AND

33 3. IN ONE ROOM OR IN A SERIES OF CLOSELY ASSOCIATED
34 ROOMS.

1 2. ON EITHER A TRANSIENT OR PERMANENT BASIS; AND
 2 3. WITH OR WITHOUT MEALS, BUT WITHOUT INDIVIDUAL
 3 COOKING FACILITIES.

4 (2) "LODGING OR ROOMING HOUSE" INCLUDES AN INN, CLUB, AND BED
 5 AND BREAKFAST ESTABLISHMENT.

6 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 12B(a)(5).

7 In paragraph (1)(ii)3 of this subsection, the phrase "without individual
 8 cooking facilities" is substituted for the former phrase "without separate
 9 cooking facilities for individual occupants" to conform to subsection
 10 (b)(1)(ii)1 of this section.

11 The only other changes are in style.

12 (F) MULTIFAMILY RESIDENTIAL DWELLING.

13 (1) "MULTIFAMILY RESIDENTIAL DWELLING" MEANS A BUILDING OR
 14 PART OF A BUILDING THAT:

15 (I) CONTAINS MORE THAN TWO DWELLING UNITS; AND

16 (II) IS NOT CLASSIFIED AS A ONE OR TWO FAMILY DWELLING.

17 (2) "MULTIFAMILY RESIDENTIAL DWELLING" DOES NOT INCLUDE A
 18 TOWN HOUSE.

19 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 12B(a)(6).

20 The only changes are in style.

21 Defined term: "Dwelling unit" § 9-201

22 (G) PUBLIC WATER SYSTEM.

23 (1) "PUBLIC WATER SYSTEM" MEANS A SYSTEM THAT:

24 (I) PROVIDES THE PUBLIC WITH PIPED WATER FOR HUMAN
 25 CONSUMPTION; AND

26 (II) HAS AT LEAST 15 SERVICE CONNECTIONS OR REGULARLY
 27 SERVES AT LEAST 25 INDIVIDUALS.

28 (2) "PUBLIC WATER SYSTEM" INCLUDES:

29 (I) A COLLECTION, TREATMENT, STORAGE, OR DISTRIBUTION
 30 FACILITY THAT IS UNDER THE CONTROL OF THE OPERATOR OF THE SYSTEM AND IS
 31 USED PRIMARILY IN CONNECTION WITH THE SYSTEM; AND

1 (II) A COLLECTION OR PRETREATMENT STORAGE FACILITY THAT IS
2 NOT UNDER THE CONTROL OF THE OPERATOR OF THE SYSTEM AND IS USED
3 PRIMARILY IN CONNECTION WITH THE SYSTEM.

4 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 12B(a)(7).

5 The only changes are in style.

6 (H) SPRINKLER SYSTEM.

7 "SPRINKLER SYSTEM" MEANS A DEVICE THAT:

8 (1) OPENS AUTOMATICALLY BY OPERATION OF A HEAT RESPONSIVE
9 RELEASING MECHANISM;

10 (2) DISCHARGES WATER IN A SPECIFIC PATTERN OVER A DESIGNATED
11 AREA TO EXTINGUISH OR CONTROL FIRE; AND

12 (3) USES THE SAME SERVICE WATER SUPPLY PIPE TO THE DWELLING
13 UNIT THAT THE PUBLIC WATER SYSTEM USES.

14 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 12B(a)(8)(i), (ii),
15 and (iii).

16 The only changes are in style.

17 Defined terms: "Dwelling unit" § 9-201

18 "Public water system" § 9-201

19 (I) TOWN HOUSE.

20 "TOWN HOUSE" MEANS A SINGLE FAMILY DWELLING UNIT THAT IS
21 CONSTRUCTED IN A HORIZONTAL SERIES OF ATTACHED UNITS WITH PROPERTY
22 LINES SEPARATING THE UNITS.

23 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 12B(a)(9).

24 The only changes are in style.

25 Defined term: "Dwelling unit" § 9-201

26 9-202. EFFECT OF SUBTITLE.

27 (A) ADOPTION OF MORE STRINGENT STANDARDS.

28 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS SUBTITLE
29 DOES NOT PRECLUDE A LOCAL JURISDICTION FROM ADOPTING MORE STRINGENT
30 STANDARDS TO GOVERN THE INSTALLATION OF SPRINKLER SYSTEMS IN NEW
31 CONSTRUCTION.

32 (B) EXCEPTION.

1 INDUSTRIALIZED BUILDINGS UNDER THE AUTHORITY OF THE DEPARTMENT OF
2 HOUSING AND COMMUNITY DEVELOPMENT IN ACCORDANCE WITH TITLE 12,
3 SUBTITLE 3 OF THIS ARTICLE SHALL COMPLY WITH THE STANDARD FOR THE
4 INSTALLATION OF SPRINKLER SYSTEMS IN RESIDENTIAL OCCUPANCIES AS ADOPTED
5 IN THE REGULATIONS OF THE STATE FIRE PREVENTION COMMISSION.

6 REVISOR'S NOTE: This section formerly was Art. 38A, § 12B(d).

7 The only changes are in style.

8 Defined term: "Sprinkler system" § 9-201

9 9-203. ENFORCEMENT OF SUBTITLE.

10 THE STATE FIRE MARSHAL OR A LOCAL OR STATE AUTHORITY WITH
11 JURISDICTION OVER THE ENFORCEMENT OF FIRE AND BUILDING CODES MAY
12 ENFORCE THIS SUBTITLE.

13 REVISOR'S NOTE: This section formerly was Art. 38A, § 12B(e).

14 The reference to this "subtitle" is substituted for the former reference to
15 this "subheading" to reflect the reorganization of former § 12B as a subtitle
16 in this revision.

17 The only other changes are in style.

18 9-204. INSTALLATION OF SPRINKLER SYSTEMS REQUIRED.

19 (A) STANDARDS FOR SPRINKLER SYSTEMS.

20 EACH SPRINKLER SYSTEM REQUIRED UNDER THIS SECTION SHALL:

21 (1) BE INSTALLED IN ACCORDANCE WITH ACCEPTED ENGINEERING
22 PRACTICES THAT MEET THE STANDARD FOR THE INSTALLATION OF SPRINKLER
23 SYSTEMS IN RESIDENTIAL OCCUPANCIES UNDER THE REGULATIONS OF THE STATE
24 FIRE PREVENTION COMMISSION OR THE LOCAL AUTHORITY WITH JURISDICTION
25 OVER THE ENFORCEMENT OF FIRE AND BUILDING CODES;

26 (2) MEET THE REQUIREMENTS OF THE CURRENT NATIONAL FIRE
27 PROTECTION ASSOCIATION STANDARDS; AND

28 (3) BE APPROVED BY THE STATE FIRE MARSHAL OR THE LOCAL
29 AUTHORITY WITH JURISDICTION OVER THE ENFORCEMENT OF FIRE CODES.

30 (B) BUILDINGS IN WHICH SPRINKLER SYSTEMS REQUIRED.

31 (1) IN A JURISDICTION IN WHICH BUILDING PERMITS ARE ISSUED, A
32 SPRINKLER SYSTEM SHALL BE INSTALLED IN:

1 (I) EACH NEWLY CONSTRUCTED DORMITORY, HOTEL, LODGING OR
 2 ROOMING HOUSE, OR MULTIFAMILY RESIDENTIAL DWELLING FOR WHICH THE
 3 INITIAL BUILDING PERMIT IS ISSUED ON OR AFTER JULY 1, 1990; AND

4 (II) EACH NEWLY CONSTRUCTED TOWN HOUSE FOR WHICH THE
 5 INITIAL BUILDING PERMIT IS ISSUED ON OR AFTER JULY 1, 1992.

6 (2) IN A JURISDICTION IN WHICH BUILDING PERMITS ARE NOT ISSUED,
 7 A SPRINKLER SYSTEM SHALL BE INSTALLED IN:

8 (I) EACH DORMITORY, HOTEL, LODGING OR ROOMING HOUSE, OR
 9 MULTIFAMILY RESIDENTIAL DWELLING ON WHICH CONSTRUCTION BEGINS ON OR
 10 AFTER JULY 1, 1990; AND

11 (II) EACH TOWN HOUSE ON WHICH CONSTRUCTION BEGINS ON OR
 12 AFTER JULY 1, 1992.

13 (C) EXCEPTION.

14 IF A DWELLING UNIT IS NOT SERVICED BY A PUBLIC WATER SYSTEM,
 15 SUBSECTIONS (A) AND (B) OF THIS SECTION DO NOT APPLY.

16 REVISOR'S NOTE: This section is new language derived without substantive
 17 change from former Art. 38A, § 12B(b) and (a)(8)(iv) and (v).

18 In subsection (a)(2) and (3) of this section, former Art. 38A, § 12B(a)(8)(iv)
 19 and (v) are restated as substantive requirements for sprinkler systems,
 20 rather than as part of the definition of "sprinkler system", for clarity.

21 In subsection (c) of this section, the former reference to a public water
 22 "supply" system is deleted as surplusage.

23 Defined terms: "Dormitory" § 9-201

24 "Dwelling unit" § 9-201

25 "Hotel" § 9-201

26 "Lodging or rooming house" § 9-201

27 "Multifamily residential dwelling" § 9-201

28 "Public water system" § 9-201

29 "Sprinkler system" § 9-201

30 "Town house" § 9-201

31 9-205. AUTHORITY TO GRANT EXCEPTIONS.

32 (A) IN GENERAL.

33 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IF THERE IS CLEAR
 34 EVIDENCE THAT AN EXCEPTION WILL NOT ADVERSELY AFFECT THE FIRE SAFETY OF
 35 A BUILDING OR ITS OCCUPANTS, THE STATE FIRE MARSHAL OR A LOCAL AUTHORITY
 36 WITH JURISDICTION OVER THE ENFORCEMENT OF FIRE AND BUILDING CODES MAY
 37 GRANT AN EXCEPTION TO:

1 (1) A REQUIREMENT OF A STATE OR LOCAL FIRE AND BUILDING CODE IF
2 A SPRINKLER SYSTEM IS INSTALLED IN A BUILDING AS REQUIRED BY THIS SUBTITLE;
3 OR

4 (2) THE SPRINKLER SYSTEM REQUIREMENT OF THIS SUBTITLE IF, ON
5 OR BEFORE JUNE 30, 1990:

6 (I) THE LOCAL AUTHORITY GAVE APPROVAL TO A CONSTRUCTION
7 PLAN FOR A DORMITORY, HOTEL, LODGING OR ROOMING HOUSE, MULTIFAMILY
8 RESIDENTIAL UNIT, OR TOWN HOUSE; AND

9 (II) THE APPROVED PLAN DID NOT INCLUDE THE INSTALLATION OF
10 A SPRINKLER SYSTEM AS REQUIRED BY THIS SUBTITLE.

11 (B) SMOKE DETECTORS.

12 THE STATE FIRE MARSHAL OR A LOCAL AUTHORITY MAY NOT GRANT AN
13 EXCEPTION UNDER THIS SECTION TO A SMOKE DETECTOR REQUIREMENT.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 38A, § 12B(c).

16 In subsection (a)(2)(i) of this section, the specific references to a "dormitory,
17 hotel, lodging or rooming house, multifamily residential unit, or town
18 house" are substituted for the former general reference to a "building
19 covered by this section" for precision.

20 In subsection (a)(2)(ii) of this section, the reference to the "plan" is
21 substituted for the former reference to "plans" for consistency with
22 subsection (a)(2)(i) of this section.

23 Defined terms: "Dormitory" § 9-201

24 "Hotel" § 9-201

25 "Lodging or rooming house" § 9-201

26 "Multifamily residential dwelling" § 9-201

27 "Sprinkler system" § 9-201

28 "Town house" § 9-201

29 9-206. VIOLATION OF SUBTITLE.

30 (A) PROHIBITED.

31 A PERSON MAY NOT KNOWINGLY VIOLATE THIS SUBTITLE.

32 (B) PENALTY.

33 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
34 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 DAYS OR A FINE
35 NOT EXCEEDING \$1,000 OR BOTH.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 38A, § 13(a), except as it related to violations of
3 regulations.

4 In subsection (b) of this section, the reference to a person who violates this
5 section being guilty "of a misdemeanor" is added to state expressly that
6 which was only implied in the former law. In this State, any crime that was
7 not a felony at common law and has not been declared a felony by statute
8 is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490
9 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Dutton v. State*, 123 Md.
10 373, 378 (1914); and *Williams v. State*, 4 Md. App. 342, 347 (1968).

11 Also in subsection (b) of this section, the reference to a person "on
12 conviction" being subject to certain penalties is added to state expressly
13 that which was only implied in the former law, and for consistency with
14 other penalty provisions in this and other revised articles of the Code.

15 Defined term: "Person" § 1-101

16 SUBTITLE 3. FAST RESPONSE RESIDENTIAL FIRE SPRINKLER SYSTEMS.

17 9-301. SCOPE OF SUBTITLE.

18 (A) EFFECT ON FIRE SAFETY LAWS.

19 THIS SUBTITLE:

20 (1) IS IN ADDITION TO ANY EXISTING FIRE SAFETY LAWS; AND

21 (2) DOES NOT LIMIT THE AUTHORITY OF THE STATE FIRE PREVENTION
22 COMMISSION OR STATE FIRE MARSHAL TO ACT UNDER EXISTING FIRE SAFETY LAWS.

23 (B) EXCEPTIONS TO SUBTITLE.

24 IF THERE IS CLEAR EVIDENCE THAT EQUIVALENT PROTECTION OF HUMAN
25 LIFE WILL BE PROVIDED AS REQUIRED BY THIS SUBTITLE, EXCEPTIONS TO THIS
26 SUBTITLE MAY BE MADE BY:

27 (1) THE STATE FIRE PREVENTION COMMISSION;

28 (2) THE STATE FIRE MARSHAL;

29 (3) A COUNTY FIRE CHIEF;

30 (4) A FIRE ADMINISTRATOR WITH RESPONSIBILITY FOR CODE
31 ENFORCEMENT; AND

32 (5) IN BALTIMORE CITY, THE BOARD OF FIRE COMMISSIONERS OR THE
33 CHIEF OF THE FIRE DEPARTMENT.

34 (C) ENACTMENT OF MORE STRINGENT LAWS.

1 THIS SUBTITLE DOES NOT PREVENT A COUNTY OR MUNICIPAL CORPORATION
2 FROM ENACTING MORE STRINGENT LAWS TO GOVERN THE INSTALLATION OF FIRE
3 SPRINKLER SYSTEMS.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 38A, § 47(d), (e), and (i).

6 In this section and throughout this subtitle, the reference to this "subtitle"
7 is substituted for the former reference to this "section" to reflect the
8 reorganization of former Art. 38A, § 47 as a subtitle in this revision.

9 In subsection (b)(5) of this section, the conjunction "or" is substituted for
10 the former conjunction "and" to clarify that the Board of Fire
11 Commissioners or the Chief of the Fire Department may make exceptions
12 in Baltimore City.

13 In subsection (c) of this section, the former reference to the "City of
14 Baltimore" is deleted because Baltimore City is included in the defined
15 term "county".

16 Defined term: "County" § 1-101

17 9-302. ENFORCEMENT OF SUBTITLE.

18 A COUNTY FIRE CHIEF, FIRE ADMINISTRATOR, OR MUNICIPAL FIRE CHIEF MAY
19 ENFORCE THIS SUBTITLE.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 38A, § 47(f).

22 Defined term: "County" § 1-101

23 9-303. INSTALLATION REQUIRED.

24 (A) IN GENERAL.

25 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, EACH HOTEL OR
26 MOTEL WITH 10 OR MORE UNITS FOR WHICH A CONTRACT FOR CONSTRUCTION IS
27 EXECUTED AFTER JULY 1, 1989, SHALL HAVE INSTALLED A FAST RESPONSE
28 RESIDENTIAL FIRE SPRINKLER SYSTEM THAT IS INTENDED:

29 (1) TO DETECT AND CONTROL A FIRE AUTOMATICALLY;

30 (2) TO PROVIDE IMPROVED PROTECTION AGAINST INJURY, LOSS OF
31 LIFE, AND PROPERTY DAMAGE;

32 (3) TO MAINTAIN SURVIVABLE CONDITIONS IN THE ROOM OF FIRE
33 ORIGIN; AND

34 (4) TO IMPROVE THE CHANCE FOR OCCUPANTS TO ESCAPE OR BE
35 EVACUATED.

1 (B) EXCEPTION.

2 A HOTEL OR MOTEL NEED NOT INSTALL A FAST RESPONSE RESIDENTIAL FIRE
3 SPRINKLER SYSTEM IF:

4 (1) THE HOTEL OR MOTEL IS A ONE OR TWO STORY BUILDING; AND

5 (2) ALL OCCUPANTS ARE ABLE TO EXIT DIRECTLY TO THE EXTERIOR OF
6 THE BUILDING AND NOT ONLY TO A CENTRAL CORRIDOR THROUGH AN APPROVED
7 EXIT DOOR, AS THOSE TERMS ARE USED IN THE MOST RECENT EDITION OF THE
8 NATIONAL FIRE PROTECTION ASSOCIATION LIFE SAFETY CODE ADOPTED BY THE
9 STATE FIRE PREVENTION COMMISSION.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 38A, § 47(a) and (b).

12 Subsection (a) of this section is revised to incorporate the substance of the
13 former definition of "fast response residential fire sprinkler system" for
14 clarity.

15 In subsection (a)(3) of this section, the former phrase "when sprinklered" is
16 deleted as surplusage.

17 In subsection (b)(2) of this section, the reference to the "most recent
18 edition" of the National Fire Protection Association Life Safety Code
19 "adopted by the State Fire Prevention Commission" is substituted for the
20 former obsolete reference to the "1985 Edition" for accuracy and to
21 accommodate reference to future editions of the NFPA Life Safety Code.

22 9-304. REQUIREMENTS FOR SYSTEMS.

23 EACH FAST RESPONSE RESIDENTIAL FIRE SPRINKLER SYSTEM INSTALLED
24 SHALL:

25 (1) BE DESIGNED AND CONSTRUCTED IN ACCORDANCE WITH ACCEPTED
26 ENGINEERING PRACTICES; AND

27 (2) COMPLY WITH STANDARDS AND REGULATIONS DEVELOPED AND
28 ADOPTED BY:

29 (I) THE STATE FIRE PREVENTION COMMISSION;

30 (II) A COUNTY FIRE CHIEF;

31 (III) A FIRE ADMINISTRATOR WITH RESPONSIBILITY FOR CODE
32 ENFORCEMENT; OR

33 (IV) IN BALTIMORE CITY, THE CHIEF OF THE FIRE DEPARTMENT.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 38A, § 47(c).

1 Defined term: "County" § 1-101

2 9-305. COST OF INSTALLATION CONSIDERED.

3 WHEN EVALUATING AND APPROVING A BUILDER'S OVERALL SITE
4 DEVELOPMENT AND CONSTRUCTION PLANS, THE COST OF THE BUILDER'S
5 INSTALLATION OF FAST RESPONSE RESIDENTIAL FIRE SPRINKLER SYSTEMS SHALL
6 BE CONSIDERED BY:

7 (1) LOCAL BUILDING OFFICIALS;

8 (2) LOCAL FIRE CHIEFS;

9 (3) THE STATE FIRE PREVENTION COMMISSION;

10 (4) THE STATE FIRE MARSHAL;

11 (5) FIRE ADMINISTRATORS WITH RESPONSIBILITY FOR CODE
12 ENFORCEMENT; AND

13 (6) IN BALTIMORE CITY, THE CHIEF OF THE FIRE DEPARTMENT.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 38A, § 47(h).

16 9-306. PENALTY FOR VIOLATION OF SUBTITLE.

17 A PERSON WHO VIOLATES THIS SUBTITLE IS SUBJECT TO THE PENALTY
18 PROVIDED IN § 6-601 OF THIS ARTICLE.

19 REVISOR'S NOTE: This section formerly was Art. 38A, § 47(g).

20 The only changes are in style.

21 Defined term: "Person" § 1-101

22 SUBTITLE 4. HIGH-RISE BUILDING SAFETY IN CASE OF FIRE.

23 9-401. DEFINITIONS.

24 (A) IN GENERAL.

25 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

26 REVISOR'S NOTE: This subsection is new language derived without
27 substantive change from the introductory language of former Art. 38A, §
28 49.

29 The former limitation, "unless the context otherwise requires", is deleted
30 as an unnecessary statement of a standard rule of statutory construction
31 that applies to all definitions.

1 (B) HIGH-RISE BUILDING.

2 (1) "HIGH-RISE BUILDING" MEANS A BUILDING FOR HUMAN
3 OCCUPANCY THAT IS:

4 (I) FOUR OR MORE STORIES ABOVE GRADE LEVEL; OR

5 (II) OVER 45 FEET IN HEIGHT.

6 (2) "HIGH-RISE BUILDING" DOES NOT INCLUDE:

7 (I) A STRUCTURE OR BUILDING USED EXCLUSIVELY FOR OPEN AIR
8 PARKING; OR

9 (II) A BUILDING USED EXCLUSIVELY FOR AGRICULTURAL
10 PURPOSES.

11 REVISOR'S NOTE: This subsection is new language derived without
12 substantive change from the first and last sentences of former Art. 38A, §
13 49(1).

14 In paragraph (2)(i) of this subsection, the former phrase "wherever located"
15 is deleted as surplusage.

16 (C) LOCAL FIRE DEPARTMENT.

17 "LOCAL FIRE DEPARTMENT" MEANS A CAREER OR VOLUNTEER FIRE
18 DEPARTMENT.

19 REVISOR'S NOTE: This subsection is new language derived without
20 substantive change from former Art. 38A, § 49(3).

21 The reference to a "career" fire department is substituted for the former
22 reference to a "full-time" fire department for consistency with terminology
23 used throughout this article.

24 (D) PUBLIC WAY.

25 "PUBLIC WAY" MEANS A PAVED THOROUGHFARE OVER 21 FEET IN WIDTH THAT:

26 (1) IS LOCATED ON PRIVATELY OWNED AND PRIVATELY MAINTAINED
27 PROPERTY BUT IS DESIGNATED FOR PUBLIC USE; OR

28 (2) IS PUBLICLY OWNED AND PUBLICLY MAINTAINED.

29 REVISOR'S NOTE: This subsection is new language derived without
30 substantive change from the first sentence of former Art. 38A, § 49(2),
31 except as it related to a public way being accessible to the fire department.

1 9-402. PURPOSE OF SUBTITLE; LEGISLATIVE FINDINGS.

2 (A) PURPOSE OF SUBTITLE.

3 THE PURPOSE OF THIS SUBTITLE IS TO PROVIDE FOR THE PHYSICAL SAFETY
4 AND PROTECTION OF PROPERTY OF OCCUPANTS OF HIGH-RISE BUILDINGS IN CASE
5 OF FIRE.

6 (B) LEGISLATIVE FINDINGS.

7 (1) WITHOUT ADEQUATE PROTECTION, RESIDENTS OF HIGH-RISE
8 BUILDINGS ARE DEPENDENT ON DESCENDING MULTIPLE FLIGHTS OF STEPS OR
9 JUMPING FROM WINDOWS WHEN A FIRE OCCURS.

10 (2) FOR MANY ELDERLY RESIDENTS OF HIGH-RISE BUILDINGS, THIS IS
11 PHYSICALLY IMPOSSIBLE.

12 (3) MOST FIRE FIGHTING AND RESCUE OPERATIONS ARE ALSO
13 CONDUCTED INSIDE THE HIGH-RISE BUILDING, WHERE THERE ARE GREATER
14 OBSTACLES TO RESCUING OCCUPANTS AND CONTROLLING AND EXTINGUISHING
15 THE FIRE.

16 (4) MANY TRAGEDIES COULD BE AVOIDED BY INSTALLATION OF
17 AUTOMATIC FIRE EXTINGUISHING EQUIPMENT IN THESE SITUATIONS, USUALLY AT
18 NO GREAT ADDITIONAL COST TO BUILDERS.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 38A, § 48.

21 In subsection (a) of this section, the reference to providing for "the physical
22 safety and protection of property" of occupants is substituted for the former
23 reference to providing "protection for the life, limb, and property" of
24 occupants for clarity.

25 In subsection (b)(1) and (3) of this section, the reference to "high-rise
26 building[s]" is substituted for the former reference to "structure[s]" for
27 clarity and to use the defined term. Similarly, in subsection (b)(2) of this
28 section, the reference to "high-rise buildings" is substituted for the former
29 reference to "high-rise apartments" for consistency.

30 Defined term: "High-rise building" § 9-401

31 9-403. AUTOMATIC SPRINKLER SYSTEM REQUIRED.

32 (A) IN GENERAL.

33 EACH HIGH-RISE BUILDING CONSTRUCTED AFTER JULY 1, 1974, SHALL BE
34 PROTECTED BY A COMPLETE AUTOMATIC SPRINKLER SYSTEM INSTALLED IN
35 ACCORDANCE WITH ACCEPTED ENGINEERING PRACTICES AS APPROVED BY THE
36 AUTHORITY WITH JURISDICTION.

1 (B) EXCEPTION.

2 (1) THIS SECTION DOES NOT APPLY TO A BUILDING THAT IS LESS THAN
3 75 FEET IN HEIGHT ABOVE GRADE LEVEL IF:

4 (I) THE LOCAL FIRE DEPARTMENT HAS AT LEAST ONE APPROVED
5 FIRST LINE PIECE OF AERIAL EQUIPMENT THAT IS CAPABLE OF REACHING THE ROOF
6 OF THE BUILDING; AND

7 (II) ACCESSIBILITY TO THE BUILDING IS PROVIDED ON TWO SIDES
8 OF THE PERIMETER OF THE BUILDING BY A PUBLIC WAY THAT IS:

9 1. KEPT ACCESSIBLE AT ALL TIMES TO THE LOCAL FIRE
10 DEPARTMENT; AND

11 2. CLOSE ENOUGH TO THE BUILDING TO ALLOW THE FIRE
12 DEPARTMENT AERIAL EQUIPMENT TO REACH 75 FEET IN HEIGHT.

13 (2) FOR PURPOSES OF THIS SUBSECTION, HEIGHT ABOVE GRADE LEVEL
14 SHALL BE DETERMINED BY USING THE LOWEST ELEVATION OF THE PUBLIC WAY AS
15 A REFERENCE DATUM.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 38A, § 50(a), the second sentence and (i), (ii), and
18 (iii) of § 49(1), and the second sentence of § 49(2) and, as it related to a
19 public way being accessible to the fire department, the first sentence.

20 Subsection (b)(1) of this section is revised as an exception to the
21 requirement for an automatic sprinkler system rather than an exception to
22 what type of building is considered a "high-rise building", for clarity.
23 Similarly, the requirements that a public way be accessible to the fire
24 department and close enough to the building are revised as elements of the
25 exception for certain buildings rather than parts of the definition of "public
26 way", for clarity.

27 In subsection (b)(1) and (2) of this section, the reference to height above
28 grade "level" is added for clarity.

29 Defined terms: "High-rise building" § 9-401

30 "Local fire department" § 9-401

31 "Public way" § 9-401

32 9-404. APPEAL OF ORDERS FOR COMPLIANCE.

33 (A) APPEAL TO STATE FIRE PREVENTION COMMISSION.

34 AN ORDER FOR COMPLIANCE WITH THE REQUIREMENTS OF § 9-403 OF THIS
35 SUBTITLE THAT IS ISSUED IN ACCORDANCE WITH THE AUTHORITY GRANTED UNDER
36 TITLE 6, SUBTITLE 3 OF THIS ARTICLE MAY BE APPEALED TO THE STATE FIRE
37 PREVENTION COMMISSION.

1 (B) APPEAL TO LOCAL AUTHORITY.

2 AN ORDER FOR COMPLIANCE WITH THE REQUIREMENTS OF § 9-403 OF THIS
3 SUBTITLE THAT IS ISSUED IN ACCORDANCE WITH THE AUTHORITY GRANTED BY A
4 LOCAL LAW, ORDINANCE, OR REGULATION MAY BE APPEALED AS PROVIDED BY LAW,
5 ORDINANCE, OR REGULATION OF THE LOCAL JURISDICTION.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 38A, § 50(b) and (c).

8 In subsection (a) of this section, the specific reference to "Title 6, Subtitle 3
9 of" this article is added to cross-reference the provisions that relate to the
10 authority of the State Fire Marshal to make orders for compliance.

11 SUBTITLE 5. EVACUATION PROCEDURES IN CASE OF FIRE.

12 9-501. SCOPE OF SUBTITLE.

13 (A) IN GENERAL.

14 THIS SUBTITLE DOES NOT APPLY TO WASHINGTON COUNTY.

15 (B) EFFECT ON FIRE SAFETY LAWS.

16 THIS SUBTITLE:

17 (1) IS IN ADDITION TO ANY EXISTING FIRE SAFETY LAWS; AND

18 (2) DOES NOT LIMIT THE AUTHORITY OF THE STATE FIRE PREVENTION
19 COMMISSION OR STATE FIRE MARSHAL TO ACT UNDER EXISTING FIRE SAFETY LAWS.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 38A, §§ 54(b) and 55(c).

22 In subsection (b)(1) and (2) of this section, the reference to "fire safety
23 laws" is substituted for the former reference to "safety fire laws" for clarity
24 and consistency with terminology used throughout this article.

25 9-502. POSTING OF FIRE SAFETY INFORMATION IN HOTELS, MOTELS, AND LODGING
26 HOUSES.

27 EACH HOTEL, MOTEL, AND LODGING HOUSE SHALL POST IN A PROMINENT
28 PLACE IN EACH GUEST ROOM A NOTICE THAT STATES:

29 (1) THE LOCATION OF THE NEAREST EXITS AND FIRE PULL STATIONS;

30 (2) THE PROCEDURES TO BE FOLLOWED IF THE FIRE OR SMOKE
31 DETECTOR GIVES WARNING SIGNALS; AND

32 (3) THE PROCEDURES TO BE FOLLOWED IF FIRE OR SMOKE DEVELOPS.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 38A, § 53A(a).

3 In the introductory language of this section, the reference to a notice that
4 "states" certain information is substituted for the former reference to a
5 notice "containing the following information" for brevity.

6 9-503. AUTOMATIC FIRE EXTINGUISHING SYSTEMS IN SPECIFIED BUILDINGS.

7 (A) REQUIRED.

8 EACH BUILDING CONSTRUCTED AFTER JULY 1, 1977, THAT IS INTENDED TO
9 HOUSE 50 OR MORE OCCUPANTS WHO, BECAUSE OF AGE, BLINDNESS, DISABILITY, OR
10 PHYSICAL OR MENTAL ILLNESS, ARE UNABLE TO EVACUATE THE BUILDING
11 WITHOUT ASSISTANCE IN CASE OF FIRE, SHALL BE PROTECTED THROUGHOUT THE
12 ENTIRE BUILDING BY A SYSTEM THAT IS:

13 (1) DESIGNED TO DETECT AND EXTINGUISH A FIRE AUTOMATICALLY
14 WHILE SOUNDING AN ALARM; AND

15 (2) INSTALLED IN ACCORDANCE WITH ACCEPTED ENGINEERING
16 PRACTICES APPROVED BY THE AUTHORITY WITH JURISDICTION.

17 (B) APPEAL OF ORDERS FOR COMPLIANCE.

18 (1) AN ORDER FOR COMPLIANCE WITH THE REQUIREMENTS OF THIS
19 SECTION THAT IS ISSUED IN ACCORDANCE WITH THE AUTHORITY GRANTED UNDER
20 TITLE 6, SUBTITLE 3 OF THIS ARTICLE MAY BE APPEALED TO THE STATE FIRE
21 PREVENTION COMMISSION.

22 (2) AN ORDER FOR COMPLIANCE WITH THE REQUIREMENTS OF THIS
23 SECTION THAT IS ISSUED IN ACCORDANCE WITH THE AUTHORITY GRANTED BY A
24 LOCAL LAW, ORDINANCE, OR REGULATION MAY BE APPEALED AS PROVIDED BY LAW,
25 ORDINANCE, OR REGULATION OF THE LOCAL JURISDICTION.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 38A, §§ 53(b) and (c) and 54(a) and (c).

28 In subsection (a) of this section, the former definitions of "[o]ccupant
29 needing evacuation assistance" and "[a]utomatic fire extinguishing
30 system" are revised as part of the requirement that certain buildings have
31 a certain automatic fire extinguishing system, for clarity and to avoid
32 defining terms that are used only once outside of their own definitions.
33 Correspondingly, former Art. 38A, § 53(a), which was standard
34 introductory language used in a definition section, is deleted as
35 unnecessary.

36 In subsection (b)(1) of this section, the specific reference to "Title 6,
37 Subtitle 3 of" this article is added to cross-reference the provisions that
38 relate to the authority of the State Fire Marshal to make orders for

1 compliance.

2 9-504. SYMBOLS TO IDENTIFY DWELLINGS OF OCCUPANTS NEEDING EVACUATION
3 ASSISTANCE.

4 (A) DEVELOPMENT OF PROGRAM REQUIRED.

5 THE STATE FIRE PREVENTION COMMISSION SHALL DEVELOP A PROGRAM TO
6 IDENTIFY BY THE DISPLAY OF A SIGN, STICKER, OR OTHER APPROPRIATE SYMBOL,
7 THE DWELLINGS OF OCCUPANTS WHO, BECAUSE OF AGE, BLINDNESS, DISABILITY,
8 OR PHYSICAL OR MENTAL ILLNESS, ARE UNABLE TO EVACUATE THE BUILDING
9 WITHOUT ASSISTANCE IN CASE OF FIRE.

10 (B) ADOPTION OF REGULATIONS REQUIRED.

11 THE COMMISSION SHALL ADOPT REGULATIONS TO GOVERN THE DISTRIBUTION
12 AND USE OF THE SYMBOLS DESCRIBED IN SUBSECTION (A) OF THIS SECTION.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 38A, §§ 53(b) and 55A(a) and (b).

15 In subsection (a) of this section, the former definition of "[o]ccupant
16 needing evacuation assistance" is revised as part of the requirement that
17 the State Fire Prevention Commission develop a program to identify the
18 dwellings of certain occupants, for clarity and to avoid defining a term that
19 is used only once outside of its own definition.

20 In subsection (b) of this section, the reference to the "use" of symbols is
21 substituted for the former reference to the "employment" of symbols for
22 clarity.

23 Also in subsection (b) of this section, the former reference to "rules" is
24 deleted because the State Fire Prevention Commission adopts
25 "regulations", not rules. *See* General Revisor's Note to article.

26 Former Art. 38A, § 55A(c), which required the State Fire Marshal to
27 enforce regulations adopted by the Commission, is deleted as redundant in
28 light of former Art. 38A, § 8(c), which required the State Fire Marshal to
29 enforce the regulations adopted by the State Fire Prevention Commission.
30 Former Art. 38A, § 8(c) is revised in § 6-305(a)(2) of this article.

31 9-505. ALTERNATIVE REQUIREMENTS FOR ACUTE CARE HOSPITALS.

32 ALTERNATIVE AND EQUIVALENT FIRE AND SAFETY REQUIREMENTS ARE
33 ALLOWED IN ACUTE CARE HOSPITALS IN ACCORDANCE WITH CURRENT NATIONALLY
34 RECOGNIZED CODES AND STANDARDS ADOPTED BY THE APPROPRIATE AUTHORITY
35 WITH JURISDICTION.

36 REVISOR'S NOTE: This section is new language derived without substantive
37 change from former Art. 38A, § 55(b).

1 9-506. PENALTIES FOR VIOLATION OF SUBTITLE.

2 (A) IN GENERAL.

3 A PERSON WHO VIOLATES THIS SUBTITLE IS SUBJECT TO THE PENALTIES
4 PROVIDED IN § 6-601 OF THIS ARTICLE.

5 (B) HOTELS, MOTELS, AND LODGING HOUSES.

6 A HOTEL, MOTEL, OR LODGING HOUSE THAT VIOLATES A REGULATION
7 ADOPTED BY THE STATE FIRE PREVENTION COMMISSION IS SUBJECT TO THE
8 PENALTIES PROVIDED IN § 6-601 OF THIS ARTICLE.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 38A, §§ 53A(b) and 55(a).

11 Defined term: "Person" § 1-101

12 SUBTITLE 6. DISCLOSURE OF FIRE LOSS INVESTIGATION REPORTS.

13 9-601. DEFINITIONS.

14 (A) IN GENERAL.

15 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

16 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 56(a).

17 The only changes are in style.

18 (B) FIRE INVESTIGATOR.

19 (1) "FIRE INVESTIGATOR" MEANS AN OFFICIAL OF THE STATE, A
20 COUNTY, OR A MUNICIPAL CORPORATION WHO IS LEGALLY DESIGNATED TO HAVE
21 LEGAL RESPONSIBILITY FOR INVESTIGATING FIRES AND SUPPRESSING ARSON.

22 (2) "FIRE INVESTIGATOR" INCLUDES A FIRE MARSHAL.

23 REVISOR'S NOTE: This subsection is new language derived without
24 substantive change from former Art. 38A, § 56(b).

25 In paragraph (2) of this subsection, the former reference to a "fire
26 investigator" is deleted to avoid using the term being defined in its own
27 definition.

28 Defined term: "County" § 1-101

29 (C) INSURER.

30 "INSURER" MEANS A PERSON LICENSED OR ESTABLISHED BY THE STATE TO
31 INSURE PROPERTY OF ANY KIND.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 38A, § 56(c).

3 The reference to an "[i]nsurer" is substituted for the former reference to an
4 "[i]nsurance company" for consistency with the terminology used in the
5 Insurance Article.

6 Defined term: "Person" § 1-101

7 9-602. DISCLOSURE OF INFORMATION BY INSURER -- IN GENERAL.

8 ON REQUEST OF A FIRE INVESTIGATOR, AN INSURER INVESTIGATING A FIRE
9 LOSS OF REAL OR PERSONAL PROPERTY SHALL COOPERATE WITH AND RELEASE TO
10 THE FIRE INVESTIGATOR ANY INFORMATION IT HAS ABOUT THE FIRE LOSS,
11 INCLUDING:

12 (1) EACH INSURANCE POLICY AND APPLICATION FOR THE POLICY
13 RELEVANT TO THE FIRE LOSS;

14 (2) POLICY PREMIUM PAYMENT RECORDS;

15 (3) PREVIOUS CLAIMS MADE BY THE INSURED FOR FIRE LOSS; AND

16 (4) MATERIAL THAT RELATES TO THE INVESTIGATION OF THE FIRE
17 LOSS, PROOF OF LOSS, AND ANY OTHER RELEVANT EVIDENCE.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 38A, § 57(a).

20 In the introductory language of this section, the defined term "fire
21 investigator" is substituted for the former reference to "any official
22 authorized to request such information pursuant to this section" for clarity
23 because a fire investigator is the only official authorized to request
24 information under this section.

25 Also in the introductory language of this section, the former phrase "but is
26 not limited to" is deleted as unnecessary in light of Art. 1, § 30, which
27 provides that the term "including" is used "by way of illustration and not
28 by way of limitation".

29 In item (1) of this section, the former reference to a fire loss "under
30 investigation" is deleted as implicit.

31 In item (3) of this section, the former reference to a "[h]istory of" previous
32 claims made by the insured is deleted as surplusage.

33 Defined terms: "Fire investigator" § 9-601

34 "Insurer" § 9-601

1 9-603. SAME -- FIRE LOSS CAUSED BY INCENDIARY MEANS.

2 IF AN INSURER HAS REASON TO SUSPECT THAT A FIRE LOSS TO REAL OR
3 PERSONAL PROPERTY OF THE INSURED WAS CAUSED BY INCENDIARY MEANS, THE
4 INSURER SHALL:

5 (1) NOTIFY THE FIRE INVESTIGATOR;

6 (2) PROVIDE THE FIRE INVESTIGATOR WITH ALL RELEVANT MATERIAL
7 ACQUIRED DURING THE INSURER'S INVESTIGATION OF THE FIRE LOSS;

8 (3) COOPERATE WITH AND TAKE ANY ACTION REQUESTED BY THE FIRE
9 INVESTIGATOR; AND

10 (4) ALLOW A PERSON, ON COURT ORDER, TO INSPECT ANY OF THE
11 INSURER'S RECORDS THAT RELATE TO THE POLICY AND THE FIRE LOSS.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 38A, § 57(c).

14 Defined terms: "Fire investigator" § 9-601

15 "Insurer" § 9-601

16 "Person" § 1-101

17 9-604. CONFIDENTIALITY OF INFORMATION.

18 A FIRE INVESTIGATOR WHO RECEIVES INFORMATION UNDER THIS SUBTITLE
19 SHALL KEEP THE INFORMATION CONFIDENTIAL UNTIL THE RELEASE OF THE
20 INFORMATION IS REQUIRED IN ACCORDANCE WITH A CIVIL OR CRIMINAL
21 PROCEEDING.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 38A, § 57(b).

24 The reference to a fire investigator "keep[ing] the information confidential"
25 is substituted for the former reference to the fire investigator "hold[ing]
26 the information in confidence" for clarity.

27 The former requirement that a fire investigator keep information
28 confidential until "such time as" the release of the information is required
29 is deleted as surplusage.

30 Defined term: "Fire investigator" § 9-601

31 9-605. IMMUNITY FROM CRIMINAL PROSECUTION AND CIVIL LIABILITY.

32 (A) CRIMINAL PROSECUTION.

33 IN THE ABSENCE OF FRAUD, AN INSURER OR PERSON WHO PROVIDES
34 INFORMATION ON ITS BEHALF IS NOT SUBJECT TO CRIMINAL PROSECUTION FOR AN

1 ORAL OR WRITTEN STATEMENT MADE OR OTHER ACTION TAKEN THAT IS
2 NECESSARY TO PROVIDE INFORMATION REQUIRED UNDER THIS SUBTITLE.

3 (B) CIVIL LIABILITY.

4 AN INSURER OR PERSON WHO PROVIDES INFORMATION ON ITS BEHALF HAS
5 THE IMMUNITY FROM LIABILITY DESCRIBED IN § 5-409 OF THE COURTS ARTICLE.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 38A, § 57(d).

8 Defined terms: "Insurer" § 9-601

9 "Person" § 1-101

10 9-606. PROHIBITED ACTS; PENALTY.

11 (A) PROHIBITED ACTS.

12 A PERSON MAY NOT PURPOSELY:

13 (1) REFUSE TO RELEASE INFORMATION THAT A FIRE INVESTIGATOR
14 REQUESTS UNDER § 9-602 OF THIS SUBTITLE;

15 (2) REFUSE TO REPORT A FIRE LOSS TO A FIRE INVESTIGATOR UNDER §§
16 9-602 AND 9-603 OF THIS SUBTITLE;

17 (3) REFUSE TO PROVIDE A FIRE INVESTIGATOR WITH RELEVANT
18 INFORMATION REQUIRED TO BE PROVIDED UNDER §§ 9-602 AND 9-603 OF THIS
19 SUBTITLE; OR

20 (4) FAIL TO KEEP INFORMATION CONFIDENTIAL AS REQUIRED UNDER §
21 9-604 OF THIS SUBTITLE.

22 (B) PENALTY.

23 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
24 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 DAYS OR A FINE
25 NOT EXCEEDING \$1,000 OR BOTH.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 38A, § 57(e) and (f).

28 In subsection (a)(4) of this section, the reference to failure to "keep
29 information confidential" is substituted for the former reference to a
30 failure to "hold in confidence information required to be held in confidence"
31 for clarity and conformity with § 9-604 of this subtitle.

32 In subsection (b) of this section, the reference to a person being subject to
33 a certain penalty "on conviction" is added to state expressly that which
34 only was implied in the former law, and for consistency with other penalty
35 provisions in this and other revised articles of the Code.

1 Defined terms: "Fire investigator" § 9-601

2 "Person" § 1-101

3 SUBTITLE 7. FIRE PREVENTION CODES OF COUNTIES AND MUNICIPAL
4 CORPORATIONS.

5 9-701. AUTHORITY OF COUNTIES AND MUNICIPAL CORPORATIONS TO ADOPT FIRE
6 PREVENTION CODES.

7 (A) IN GENERAL.

8 SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE LOCAL GOVERNING BODY
9 OF EACH COUNTY AND THE LEGISLATIVE BODY OF EACH MUNICIPAL CORPORATION
10 IN THE STATE MAY ADOPT BY ORDINANCE OR RESOLUTION A FIRE PREVENTION
11 CODE TO:

12 (1) PROVIDE FOR PROTECTION AGAINST FIRES AND THE REMOVAL OF
13 FIRE HAZARDS;

14 (2) PROVIDE FOR THE APPOINTMENT OF INSPECTORS TO ENFORCE THE
15 FIRE PREVENTION CODE; AND

16 (3) ESTABLISH PENALTIES FOR VIOLATION OF THE FIRE PREVENTION
17 CODE OR AN ORDINANCE, RESOLUTION, OR REGULATION FOR THE PREVENTION OF
18 FIRES OR REMOVAL OF FIRE HAZARDS.

19 (B) INCORPORATION BY REFERENCE OF STANDARD OR MODEL CODES.

20 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A FIRE
21 PREVENTION CODE OF A COUNTY OR MUNICIPAL CORPORATION ADOPTED UNDER
22 THIS SECTION MAY INCORPORATE BY REFERENCE A CODE OR PART OF A CODE
23 PREPARED BY A GOVERNMENTAL UNIT OR A TRADE OR PROFESSIONAL ASSOCIATION
24 FOR GENERAL DISTRIBUTION IN PRINTED FORM AS A STANDARD OR MODEL ON ANY
25 SUBJECT THAT RELATES TO FIRE PREVENTION, FIRE HAZARDS, OR FLAMMABLE OR
26 DANGEROUS SUBSTANCES.

27 (2) AN AMENDMENT TO A STANDARD OR MODEL CODE DESCRIBED IN
28 PARAGRAPH (1) OF THIS SUBSECTION IS NOT EFFECTIVE UNTIL SPECIFICALLY
29 INCORPORATED INTO THE FIRE PREVENTION CODE OF THE COUNTY OR MUNICIPAL
30 CORPORATION.

31 (C) PUBLICATION; PUBLIC HEARING.

32 (1) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, THE
33 LOCAL GOVERNING BODY OF A COUNTY OR LEGISLATIVE BODY OF A MUNICIPAL
34 CORPORATION MAY NOT ADOPT A FIRE PREVENTION CODE UNDER THIS SECTION
35 UNTIL A SUMMARY OF THE PROPOSAL IS PUBLISHED FOR AT LEAST 3 WEEKS IN ONE
36 OR MORE NEWSPAPERS OF GENERAL CIRCULATION IN THE COUNTY OR MUNICIPAL
37 CORPORATION.

1 (2) THE SUMMARY SHALL SPECIFY THE DATE FOR A PUBLIC HEARING
2 ON THE PROPOSAL AND SHALL STATE THAT COPIES OF THE PROPOSAL MAY BE
3 OBTAINED ON APPLICATION TO:

4 (I) FOR A COUNTY FIRE PREVENTION CODE, THE ADMINISTRATIVE
5 OFFICER OF THE COUNTY; OR

6 (II) FOR A MUNICIPAL FIRE PREVENTION CODE, THE CLERK OF THE
7 MUNICIPAL CORPORATION.

8 (D) APPLICATION OF COUNTY CODES WITHIN MUNICIPAL CORPORATIONS.

9 EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A FIRE
10 PREVENTION CODE ADOPTED BY A COUNTY UNDER THIS SECTION DOES NOT APPLY
11 WITHIN A MUNICIPAL CORPORATION THAT HAS ADOPTED A FIRE PREVENTION CODE
12 AFTER THE EFFECTIVE DATE OF THE ADOPTION OF THE FIRE PREVENTION CODE BY
13 THE MUNICIPAL CORPORATION.

14 (E) FREDERICK COUNTY.

15 (1) THIS SUBSECTION APPLIES ONLY TO FREDERICK COUNTY.

16 (2) THE SUMMARY OF THE FIRE PREVENTION CODE REQUIRED TO BE
17 PUBLISHED UNDER SUBSECTION (C) OF THIS SECTION SHALL BE PUBLISHED IN ONE
18 OR MORE NEWSPAPERS OF GENERAL CIRCULATION IN THE COUNTY AT LEAST 2
19 WEEKS BEFORE THE ADOPTION OF THE FIRE PREVENTION CODE BY THE COUNTY.

20 (3) A COPY OF THE FIRE PREVENTION CODE PROPOSED FOR ADOPTION
21 UNDER THIS SECTION MAY BE OBTAINED ON APPLICATION TO THE ADMINISTRATIVE
22 OFFICER OF THE COUNTY.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 23A, § 6(a) and former Art. 25, § 11.

25 In the introductory language of subsection (a) and in subsection (c)(1) of
26 this section, the general reference to the "local governing body" of each
27 county is substituted for the former narrow reference to the "county
28 commissioners" to encompass counties whose governing body is a county
29 council as well as counties whose governing body is composed of county
30 commissioners.

31 In the introductory language of subsection (a) of this section, the reference
32 to each "municipal corporation" is substituted for the former reference to
33 each "incorporated municipality" to conform to Md. Constitution, Art.
34 XI-E. Similarly, in subsection (c)(1) and (2)(ii) of this section, the reference
35 to a "municipal corporation" is substituted for the former references to a
36 "municipality" and an "incorporated municipality", respectively.

37 Also in the introductory language of subsection (a) of this section, the
38 former reference to each municipal corporation in the State "except

- 1 Baltimore City" is deleted as unnecessary. Baltimore City is usually
2 considered a "county" for purposes of this article and thus need not be
3 excluded as a municipal corporation. *See* § 1-101 of this article.
- 4 Also in the introductory language of subsection (a) of this section, the
5 former reference to the legislative body of an incorporated municipality in
6 this State "by whatever name known" is deleted as surplusage.
- 7 Also in the introductory language of subsection (a) of this section, the
8 former reference to the authority of a county or municipal corporation to
9 adopt "and to amend from time to time" a fire prevention code is deleted as
10 implicit in the authority to "adopt" a fire prevention code.
- 11 In subsection (b)(1) of this section, the phrase "[s]ubject to paragraph (2) of
12 this subsection" is added for clarity.
- 13 Also in subsection (b)(1) of this section, as to the substitution of the
14 reference to a governmental "unit" for the former reference to a
15 governmental "agency", *see* General Revisor's Note to article.
- 16 In subsections (c)(1) and (d) of this section, the phrase "[e]xcept as provided
17 in subsection (e) of this section" is added for clarity.
- 18 Also in subsections (c)(1) and (d) of this section, the former references to an
19 "ordinance" and "resolution" are deleted as included in the general
20 reference to a "fire prevention code". The fire prevention code is adopted by
21 ordinance or resolution.
- 22 In subsections (c)(1) and (e)(2) of this section, the reference to a summary
23 being "published" is substituted for the former reference to the summary
24 being "advertised" for clarity. The Public Safety Article Review Committee
25 notes this substitution for consideration by the General Assembly.
- 26 In subsection (c)(1) of this section, the references to the local governing
27 body "of a county" and the legislative body "of a municipal corporation" are
28 added for clarity.
- 29 Also in subsection (c)(1) of this section, the former reference to a
30 newspaper "published" in the county or municipal corporation is deleted as
31 unrealistic. The Public Safety Article Review Committee notes this
32 deletion for consideration by the General Assembly.
- 33 In subsection (c)(2) of this section, the reference to a "public hearing" is
34 substituted for the former reference to "giving an opportunity for hearing
35 any protest[s] or objection[s]" for clarity.
- 36 Also in subsection (c)(2) of this section, the reference to copies of the
37 "proposal" is substituted for the former references to "such proposed code,
38 ordinance or resolution" and "such proposed ordinances or resolutions" for
39 brevity and consistency.

1 %In subsection (c)(2)(i) of this section, the reference to the "administrative
2 officer of the county" is substituted for the former reference to the "clerk to
3 the county commissioners" for accuracy and conformity with subsection
4 (e)(2) of this section.

5 In subsection (d) of this section, the former reference to "the corporate
6 limits of" a municipal corporation is deleted as surplusage.

7 Also in subsection (d) of this section, the former reference to a municipal
8 corporation that "may adopt" a fire prevention code is deleted as
9 meaningless. The Public Safety Article Review Committee notes this
10 deletion for consideration by the General Assembly.

11 In subsection (e)(2) and (3) of this section, the reference to a "fire
12 prevention code" is substituted for the former references to an "ordinance"
13 and "resolution" for clarity and consistency throughout this section.

14 Defined term: "County" § 1-101

15 9-702. INSPECTIONS AND PLAN REVIEW.

16 (A) "PLAN REVIEW" DEFINED.

17 IN THIS SECTION, "PLAN REVIEW" HAS THE MEANING STATED IN § 6-308 OF THIS
18 ARTICLE.

19 (B) SCOPE OF SECTION.

20 (1) THIS SECTION APPLIES ONLY TO:

21 (I) A COUNTY THAT HAS ADOPTED A COMPREHENSIVE
22 NATIONALLY RECOGNIZED FIRE PREVENTION CODE AS THE FIRE PREVENTION CODE
23 OF THE COUNTY; OR

24 (II) A MUNICIPAL CORPORATION THAT HAS ADOPTED A
25 COMPREHENSIVE NATIONALLY RECOGNIZED FIRE PREVENTION CODE AS THE FIRE
26 PREVENTION CODE OF THE MUNICIPAL CORPORATION.

27 (2) THIS SECTION DOES NOT APPLY TO AN INSPECTION OR PLAN
28 REVIEW THAT IS NOT WITHIN THE JURISDICTION OF OR IS NOT CONDUCTED BY:

29 (I) THE COUNTY FIRE PREVENTION BUREAU OR OFFICE OF
30 COUNTY FIRE MARSHAL; OR

31 (II) THE MUNICIPAL FIRE PREVENTION BUREAU OR OFFICE OF
32 MUNICIPAL FIRE MARSHAL.

33 (C) FEES AND FEE SCHEDULES.

34 (1) TO ENSURE COMPLIANCE WITH THE FIRE PREVENTION CODE OF
35 THE COUNTY OR MUNICIPAL CORPORATION, THE LOCAL GOVERNING BODY OF THE

1 COUNTY OR LEGISLATIVE BODY OF THE MUNICIPAL CORPORATION MAY ADOPT
2 ORDINANCES OR REGULATIONS TO ESTABLISH AND ADMINISTER A FEE SCHEDULE
3 FOR CONDUCTING INSPECTIONS AND PLAN REVIEWS.

4 (2) (I) THE COUNTY FIRE PREVENTION BUREAU SHALL:

5 1. COLLECT THE FEES ESTABLISHED BY THE LOCAL
6 GOVERNING BODY OF THE COUNTY FOR CONDUCTING INSPECTIONS;

7 2. KEEP RECORDS OF ALL FEES COLLECTED UNDER THIS
8 SECTION; AND

9 3. PAY ALL MONEYS COLLECTED UNDER THIS SECTION INTO
10 THE GENERAL FUND OF THE COUNTY.

11 (II) THE MUNICIPAL FIRE PREVENTION BUREAU SHALL:

12 1. COLLECT THE FEES ESTABLISHED BY THE LEGISLATIVE
13 BODY OF THE MUNICIPAL CORPORATION FOR CONDUCTING INSPECTIONS;

14 2. KEEP RECORDS OF ALL FEES COLLECTED UNDER THIS
15 SECTION; AND

16 3. PAY ALL MONEYS COLLECTED UNDER THIS SECTION INTO
17 THE GENERAL FUND OF THE MUNICIPAL CORPORATION.

18 (3) TO ENSURE THAT THE MONEYS COLLECTED AT LEAST COVER THE
19 COSTS OF CONDUCTING INSPECTIONS AND PLAN REVIEWS, THE FEE SCHEDULE
20 ADOPTED UNDER THIS SECTION SHALL BE REVIEWED ANNUALLY BY:

21 (I) FOR A COUNTY, THE LOCAL GOVERNING BODY OF THE COUNTY
22 AND THE CHIEF FISCAL OFFICER OF THE COUNTY; AND

23 (II) FOR A MUNICIPAL CORPORATION, THE LEGISLATIVE BODY OF
24 THE MUNICIPAL CORPORATION AND THE CHIEF FISCAL OFFICER OF THE MUNICIPAL
25 CORPORATION.

26 (D) PLAN REVIEW.

27 (1) PLANS SHALL BE SUBMITTED TO THE COUNTY FIRE PREVENTION
28 BUREAU AND TO THE MUNICIPAL FIRE PREVENTION BUREAU FOR PLAN REVIEW
29 AND APPROVAL BEFORE ACTUAL CONSTRUCTION OF:

30 (I) A NEW BUILDING OR ADDITION;

31 (II) A BUILDING UNDERGOING A CHANGE OF OCCUPANCY THAT
32 REQUIRES SUBSTANTIAL MODIFICATION; OR

33 (III) A PART OF A BUILDING THAT HAS SUSTAINED DAMAGE FROM
34 FIRE, EXPLOSION, OR OTHER CAUSE.

1 (2) PLANS FOR A BUILDING UNDERGOING ALTERATIONS, RENOVATIONS,
2 OR REMODELING THAT DO NOT REQUIRE SUBMISSION UNDER PARAGRAPH (1) OF
3 THIS SUBSECTION SHALL BE SUBMITTED FOR REVIEW OF MAINTENANCE OF PROPER
4 EGRESS AND FIRE PROTECTION FEATURES.

5 (3) (I) THE COUNTY FIRE PREVENTION BUREAU SHALL CONDUCT A
6 PLAN REVIEW TO ENSURE COMPLIANCE WITH THE FIRE PREVENTION CODE OF THE
7 COUNTY.

8 (II) THE MUNICIPAL FIRE PREVENTION BUREAU SHALL CONDUCT
9 A PLAN REVIEW TO ENSURE COMPLIANCE WITH THE FIRE PREVENTION CODE OF
10 THE MUNICIPAL CORPORATION.

11 (4) THE FEE FOR EACH PLAN REVIEW SHALL BE SUBMITTED WITH THE
12 PLANS.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 23A, § 6(b) and former Art. 24, §§ 5-101(a), (c), (d),
15 and (e), 5-102, 5-103, 5-104, 5-105, 5-106, and 5-107.

16 Throughout this section, references to a "municipal corporation" are
17 substituted for the former references to "municipalities" and a
18 "municipality" to conform to Md. Constitution, Art. XI-E.

19 In subsection (b)(1)(i) and (ii) of this section, the reference to a
20 comprehensive nationally recognized fire prevention "code" is substituted
21 for the former reference to a "standard" for consistency with terminology
22 used throughout this subtitle.

23 In subsection (c)(1), (2)(i)1, and (3)(i) of this section, the reference to the
24 "local governing body of the county" is substituted for the former references
25 to the "county council" and the "county commissioners" for consistency
26 with terminology used in § 9-701 of this subtitle.

27 In subsection (c)(2)(ii)1 of this section, the reference to the legislative body
28 "of the municipal corporation" is added for clarity.

29 In subsection (d)(1)(iii) of this section, the reference to a building that has
30 "sustained" damage is substituted for the former reference to a building
31 that has "suffered" damage for clarity.

32 Former Art. 24, § 5-101(b), which defined "county" to mean a county of the
33 State including a code county, charter county, and Baltimore City, is
34 deleted as unnecessary in light of the definition of "county" in § 1-101 of
35 this article.

36 Former Art. 23, § 6(b)(1)(ii) and former Art. 24, § 5-101(c), which defined
37 "fees" as having the meaning stated in Article 38A, § 8C(a)(2), are deleted
38 as confusing and meaningless. Former Art. 38A, § 8C(a)(2) referred to the
39 establishment of fees by the State Fire Prevention Commission. Subsection

1 (c) of this section, however, refers to fees established by the county or
2 municipal corporation.

3 Defined term: "County" § 1-101

4 SUBTITLE 8. FIRE INSPECTIONS BY FIRE DEPARTMENTS OF COUNTIES AND
5 MUNICIPAL CORPORATIONS.

6 9-801. DEFINITIONS.

7 (A) IN GENERAL.

8 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

9 REVISOR'S NOTE: This subsection is new language added as the standard
10 introductory language to a definition section.

11 (B) COMBUSTIBLE MATERIAL.

12 "COMBUSTIBLE MATERIAL" INCLUDES WASTE PAPER, RAGS, SHAVINGS, WASTE,
13 LEATHER, RUBBER, CRATES, BOXES, BARRELS, RUBBISH, OR OTHER MATERIAL THAT
14 IS OR MAY BECOME DANGEROUS AS A FIRE MENACE.

15 REVISOR'S NOTE: This subsection is new language derived without
16 substantive change from the first sentence of former Art. 48, § 181(a), as it
17 related to the description of what is considered combustible material.

18 (C) FIRE OFFICIAL.

19 "FIRE OFFICIAL" MEANS:

20 (1) A MEMBER OF A BOARD OF FIRE COMMISSIONERS OF A MUNICIPAL
21 CORPORATION OF THE STATE;

22 (2) A CHIEF OR ASSISTANT TO THE CHIEF OF A FIRE DEPARTMENT OF A
23 MUNICIPAL CORPORATION OF THE STATE;

24 (3) AN OFFICER OR MEMBER OF A FIRE DEPARTMENT OF A MUNICIPAL
25 CORPORATION OF THE STATE ACTING UNDER THE DIRECTION OF THE BOARD OF
26 FIRE COMMISSIONERS OR FIRE CHIEF; OR

27 (4) A CHIEF, CHIEF ENGINEER, CAPTAIN, OR LIEUTENANT OF A
28 VOLUNTEER FIRE COMPANY, FIRE DISTRICT, OR ANY OTHER ORGANIZATION
29 CREATED FOR THE PURPOSE OF AND ENGAGED IN THE WORK OF EXTINGUISHING
30 FIRES IN AN UNINCORPORATED TOWN, MUNICIPAL CORPORATION, OR COUNTY OF
31 THE STATE.

32 REVISOR'S NOTE: This subsection is new language derived without
33 substantive change from the first sentence of former Art. 48, § 181(a), as it
34 related to the entities that are authorized to conduct inspections.

1 %In items (1), (2), and (3) of this subsection, the reference to a "municipal
2 corporation" of the State is substituted for the former reference to "each of
3 the cities" of the State for clarity and to conform to Md. Constitution, Art.
4 XI-E.

5 Defined term: "County" § 1-101

6 9-802. SCOPE OF SUBTITLE.

7 THIS SUBTITLE DOES NOT APPLY TO BALTIMORE COUNTY.

8 REVISOR'S NOTE: This section is new language added to provide an explicit
9 scope provision for this subtitle. It is based on the exception for Baltimore
10 County in the first sentence of former Art. 48, § 181(a).

11 9-803. FIRE INSPECTIONS AUTHORIZED.

12 (A) IN GENERAL.

13 (1) A FIRE OFFICIAL MAY INSPECT A BUILDING, STRUCTURE, OR OTHER
14 PLACE UNDER THE JURISDICTION OF THE FIRE OFFICIAL, EXCEPT THE INTERIOR OF
15 A PRIVATE DWELLING, WHERE COMBUSTIBLE MATERIAL HAS BEEN ALLOWED TO
16 ACCUMULATE OR WHERE THE FIRE OFFICIAL HAS REASON TO BELIEVE THAT
17 COMBUSTIBLE MATERIAL HAS ACCUMULATED OR MAY BE ACCUMULATED.

18 (2) AT ANY TIME AND WITHOUT LIABILITY FOR TRESPASS, A FIRE
19 OFFICIAL:

20 (I) MAY ENTER, AT THE FIRE OFFICIAL'S OWN RISK, A BUILDING,
21 INCLUDING A PRIVATE DWELLING, OR ON PREMISES WHERE A FIRE IS BURNING, OR
22 WHERE THERE IS REASONABLE CAUSE TO BELIEVE A FIRE IS BURNING, TO
23 EXTINGUISH THE FIRE;

24 (II) MAY ENTER, AT THE FIRE OFFICIAL'S OWN RISK, A BUILDING,
25 INCLUDING A PRIVATE DWELLING, OR ON PREMISES NEAR THE SCENE OF A FIRE TO
26 PROTECT THE BUILDING OR PREMISES OR TO EXTINGUISH THE FIRE;

27 (III) WHEN RESPONDING TO OR OPERATING AT A FIRE OR OTHER
28 EMERGENCY:

29 1. MAY ORDER AN INDIVIDUAL TO LEAVE A BUILDING OR
30 PLACE IN THE VICINITY OF THE FIRE OR OTHER EMERGENCY TO PROTECT THE
31 INDIVIDUAL FROM INJURY;

32 2. MAY ORDER, AFTER CONSULTATION WITH THE SENIOR
33 RAILROAD OR TRANSPORTATION OFFICIAL PRESENT, A CONVOY, CARAVAN, OR TRAIN
34 OF VEHICLES, CRAFT, OR RAILWAY CARS TO BE DETACHED OR UNCOUPLED IF THE
35 FIRE OFFICIAL DETERMINES THAT TO DO SO IS IN THE INTEREST OF SAFETY OF
36 INDIVIDUALS OR PROPERTY; AND

1 3. MAY ENTER A BUILDING THAT IS IN DANGER OF THE
 2 SPREAD OF FIRE TO PREVENT A POTENTIAL EMERGENCY, INCLUDING AN
 3 EXPLOSION, IN THE BUILDING; AND

4 (IV) TO MAINTAIN ORDER IN THE VICINITY OF A FIRE OR OTHER
 5 EMERGENCY:

6 1. MAY DIRECT THE ACTIONS OF FIREFIGHTERS AT THE
 7 FIRE OR OTHER EMERGENCY;

8 2. MAY KEEP BYSTANDERS OR OTHER INDIVIDUALS AT A
 9 SAFE DISTANCE FROM THE FIRE OR OTHER EMERGENCY AND FROM FIRE
 10 EQUIPMENT;

11 3. MAY FACILITATE THE SPEEDY MOVEMENT AND
 12 OPERATION OF FIRE-FIGHTING EQUIPMENT AND FIREFIGHTERS; AND

13 4. UNTIL THE ARRIVAL OF SUFFICIENT POLICE OFFICERS,
 14 MAY DIRECT TRAFFIC PERSONALLY OR HAVE A SUBORDINATE DO SO TO FACILITATE
 15 THE MOVEMENT OF TRAFFIC.

16 (B) OBSTRUCTING RESCUE SQUADS PROHIBITED.

17 NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, A FIRE OFFICIAL MAY
 18 NOT INHIBIT OR OBSTRUCT MEMBERS OF RESCUE SQUADS FROM PERFORMING
 19 THEIR DUTIES IN THE VICINITY OF A FIRE OR OTHER EMERGENCY.

20 REVISOR'S NOTE: This section is new language derived without substantive
 21 change from former Art. 48, § 181(a).

22 In subsection (a)(2)(ii) of this section, the former phrase "which is in
 23 progress in another building or premises" is deleted as surplusage.

24 In subsection (a)(2)(iii)1 and 2 and (iv)2 of this section, the reference to an
 25 "individual" is substituted for the former reference to a "person" because
 26 this provision covers human beings and not the other entities included in
 27 the defined term "person". See § 1-101 of this article.

28 In subsection (a)(2)(iv)1 of this section, the reference to "firefighter" is
 29 substituted for former term "firemen" for gender neutrality.

30 In subsection (a)(2)(iv)4 of this section, the former reference to the
 31 authority to "control" traffic is deleted as included in the reference to the
 32 authority to "direct" traffic.

33 Defined terms: "Combustible material" § 9-801

34 "Fire official" § 9-801

35 9-804. NOTICE TO OCCUPANT TO REMOVE COMBUSTIBLE MATERIAL.

36 (A) IN GENERAL.

1 A FIRE OFFICIAL SHALL GIVE WRITTEN NOTICE TO THE OCCUPANT OF
2 PREMISES WHERE COMBUSTIBLE MATERIAL HAS ACCUMULATED TO REMOVE THE
3 COMBUSTIBLE MATERIAL FROM THE PREMISES WITHIN 48 HOURS AFTER RECEIPT
4 OF THE NOTICE, IF AFTER AN INSPECTION MADE UNDER THIS SUBTITLE, THE FIRE
5 OFFICIAL DETERMINES THAT THE ACCUMULATION OF COMBUSTIBLE MATERIAL
6 INCREASES THE DANGER OF FIRE TO:

7 (1) THE PREMISES WHERE THE COMBUSTIBLE MATERIAL HAS
8 ACCUMULATED; OR

9 (2) ADJACENT PROPERTY.

10 (B) REMOVAL BY FIRE OFFICIAL AT OCCUPANT'S EXPENSE.

11 (1) IF THE COMBUSTIBLE MATERIAL IS NOT REMOVED FROM THE
12 PREMISES WITHIN 48 HOURS AFTER RECEIPT OF A NOTICE UNDER SUBSECTION (A)
13 OF THIS SECTION, THE FIRE OFFICIAL MAY:

14 (I) REMOVE THE COMBUSTIBLE MATERIAL FROM THE PREMISES;

15 (II) SEND A BILL TO THE OCCUPANT OF THE PREMISES FOR THE
16 COST OF THE REMOVAL; AND

17 (III) CERTIFY THE COST OF THE REMOVAL TO THE TREASURER OF
18 THE JURISDICTION.

19 (2) IF THE COST OF THE REMOVAL IS NOT PAID TO THE TREASURER
20 WITHIN 30 DAYS AFTER RECEIPT OF THE BILL, THE JURISDICTION MAY BRING A
21 CIVIL ACTION AGAINST THE OCCUPANT TO RECOVER THE COST.

22 (C) REFUSAL TO COMPLY WITH NOTICE.

23 (1) A PERSON MAY NOT REFUSE OR NEGLECT TO REMOVE
24 COMBUSTIBLE MATERIAL WITHIN 48 HOURS AFTER RECEIPT OF A NOTICE UNDER
25 SUBSECTION (A) OF THIS SECTION.

26 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
27 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT LESS THAN \$5
28 AND NOT EXCEEDING \$50 FOR EACH VIOLATION.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 48, §§ 183 and 181(b) and (c).

31 In the introductory language of subsection (a) and in subsection (b)(1)(ii)
32 and (2) of this section, the former reference to "occupants" is deleted in
33 accordance with Art. 1, § 8, which provides that the singular includes the
34 plural.

35 In the introductory language of subsection (a) of this section, the former
36 phrase "cause to be removed" is deleted in light of the reference to the

1 notice to "remove" the combustible material. Consequently, in subsection
2 (b)(1)(i) of this section, the reference to the authority of the fire official to
3 "remove" the combustible material is substituted for the former reference
4 to "caus[ing] the same to be removed" for consistency.

5 In subsection (b)(1)(ii) and (2) of this section, the former references to
6 "expenses" are deleted as included in the references to "cost".

7 In subsection (b)(1)(ii) of this section, the reference to "send[ing] a bill" is
8 substituted for the former reference to "caus[ing] notice in writing ... to be
9 given" for brevity and clarity. Similarly, in subsection (b)(2) of this section,
10 the reference to a "bill" is substituted for the former reference to "such
11 notice".

12 In subsection (b)(2) of this section, the reference to "receipt of" the bill is
13 added for clarity.

14 Also in subsection (b)(2) of this section, the reference to bringing a "civil
15 action" is substituted for the former reference to an "action on the case" to
16 conform to terminology of modern civil procedure.

17 In subsection (c)(2) of this section, the reference to a person who violates
18 this section being guilty "of a misdemeanor" is added to state expressly
19 that which was only implied in the former law. In this State, any crime
20 that was not a felony at common law and has not been declared a felony by
21 statute is considered to be a misdemeanor. *See State v. Canova*, 278 Md.
22 483, 490 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Dutton v. State*,
23 123 Md. 373, 378 (1914); and *Williams v. State*, 4 Md. App. 342, 347 (1968).

24 Also in subsection (c)(2) of this section, the reference to a person "on
25 conviction" being subject to certain penalties is added to state expressly
26 that which was only implied in the former law, and for consistency with
27 other penalty provisions in this and other revised articles of the Code.

28 Defined terms: "Combustible material" § 9-801

29 "Fire official" § 9-801

30 "Person" § 1-101

31 9-805. HINDERING, OBSTRUCTING, OR REFUSING TO ALLOW FIRE INSPECTION.

32 (A) PROHIBITED.

33 A PERSON MAY NOT HINDER, OBSTRUCT, OR REFUSE TO ALLOW A FIRE
34 INSPECTION UNDER THIS SUBTITLE.

35 (B) PENALTY.

36 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
37 ON CONVICTION IS SUBJECT FOR EACH VIOLATION TO IMPRISONMENT NOT
38 EXCEEDING 30 DAYS OR A FINE NOT LESS THAN \$10 AND NOT EXCEEDING \$100.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 48, § 182.

3 In subsection (b) of this section, the reference to a person who violates this
4 section being guilty "of a misdemeanor" is added to state expressly that
5 which was only implied in the former law. In this State, any crime that was
6 not a felony at common law and has not been declared a felony by statute
7 is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490
8 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Dutton v. State*, 123 Md.
9 373, 378 (1914); and *Williams v. State*, 4 Md. App. 342, 347 (1968).

10 Also in subsection (b) of this section, the reference to a person "on
11 conviction" being subject to certain penalties is added to state expressly
12 that which was only implied in the former law, and for consistency with
13 other penalty provisions in this and other revised articles of the Code.

14 Defined term: "Person" § 1-101

15 SUBTITLE 9. FIRE SPRINKLER CONTRACTORS.

16 9-901. "FIRE SPRINKLER CONTRACTOR" DEFINED.

17 IN THIS SUBTITLE, "FIRE SPRINKLER CONTRACTOR" MEANS A PERSON WHO
18 DESIGNS, INSTALLS, INSPECTS, TESTS, REPAIRS, OR MODIFIES A FIRE SPRINKLER
19 SYSTEM.

20 REVISOR'S NOTE: This section is new language added to provide a definition
21 of "fire sprinkler contractor" for this subtitle. It is based on the description
22 in former Art. 38A, § 3(f)(2) and (4) of what a fire sprinkler contractor does.

23 Former Art. 38A, § 3(f)(1), which defined "person" as an individual,
24 receiver, trustee, guardian, personal representative, fiduciary,
25 representative of any kind, partnership, firm, association, corporation, or
26 other entity, is deleted as unnecessary in light of the defined term "person"
27 in § 1-101 of this article to the same effect.

28 Defined term: "Person" § 1-101

29 9-902. PROGRAM TO LICENSE FIRE SPRINKLER CONTRACTORS.

30 (A) REQUIRED.

31 THE STATE FIRE PREVENTION COMMISSION SHALL ADOPT REGULATIONS TO
32 ESTABLISH A PROGRAM TO LICENSE AND REGULATE FIRE SPRINKLER
33 CONTRACTORS IN THE STATE.

34 (B) DUTIES OF STATE FIRE PREVENTION COMMISSION.

35 THE STATE FIRE PREVENTION COMMISSION SHALL ADOPT REGULATIONS TO:

1 (1) DEFINE FIRE SPRINKLER CONTRACTOR;

2 (2) DEFINE FIRE SPRINKLER SYSTEM, IN A MANNER THAT DOES NOT
3 CONFLICT WITH § 12-101(L), (M), OR (N) OF THE BUSINESS OCCUPATIONS AND
4 PROFESSIONS ARTICLE;

5 (3) DESIGNATE AND IDENTIFY EXEMPTIONS TO THE REGULATIONS;

6 (4) ESTABLISH REQUIREMENTS FOR LICENSURE INCLUDING
7 PROFESSIONAL AND TECHNICAL STANDARDS AND REQUIREMENTS FOR LIABILITY
8 INSURANCE;

9 (5) ESTABLISH A SCHEDULE OF FEES FOR LICENSES THAT WILL
10 RECOVER BUT NOT EXCEED THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH
11 THE ISSUANCE OF THE LICENSES; AND

12 (6) ESTABLISH PROCEDURES FOR THE STATE FIRE MARSHAL TO DENY,
13 SUSPEND, OR REVOKE THE LICENSE OF A PERSON WHO FAILS TO COMPLY WITH ANY
14 REGULATION ADOPTED BY THE STATE FIRE PREVENTION COMMISSION UNDER THIS
15 SUBTITLE.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 38A, § 3(f)(2) and (3).

18 In subsection (a) of this section, the former phrase "in any residential or
19 commercial building in the State" is deleted as an unnecessary limitation
20 because fire sprinkler contractors must be licensed to install a fire
21 sprinkler system in any type of building in the State.

22 In the introductory language of subsection (b) of this section, the
23 requirement to "adopt regulations to" define certain terms and establish
24 certain requirements is added to clarify that the State Fire Prevention
25 Commission performs the specified duties by adopting regulations.

26 In subsection (b)(1) and (2) of this section, the references to "fire" sprinkler
27 contractor and "fire" sprinkler system are added for clarity and consistency
28 throughout this subtitle.

29 In subsection (b)(5) of this section, the former phrase "using dollar
30 amounts" is deleted as surplusage.

31 In subsection (b)(6) of this section, the phrase "under this subtitle" is added
32 for specificity.

33 Defined terms: "Fire sprinkler contractor" § 9-901

34 "Person" § 1-101

35 9-903. FIRE SPRINKLER CONTRACTOR LICENSE REQUIRED.

36 (A) IN GENERAL.

1 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON MAY
2 NOT PROVIDE SERVICES AS A FIRE SPRINKLER CONTRACTOR IN THE STATE UNLESS
3 THE PERSON:

4 (1) IS LICENSED BY THE STATE FIRE MARSHAL; OR

5 (2) IS A CONTRACTOR OF A PERSON WHO IS LICENSED BY THE STATE
6 FIRE MARSHAL.

7 (B) EXCEPTIONS.

8 THIS SUBTITLE DOES NOT PROHIBIT:

9 (1) INSPECTIONS AND TESTS OF FIRE SPRINKLER SYSTEMS BY
10 INSURANCE REPRESENTATIVES IF THE REPRESENTATIVES ARE ACTING IN THE
11 PERFORMANCE OF THEIR ASSIGNED DUTIES;

12 (2) INSPECTIONS, TESTS, AND REPAIRS OF FIRE SPRINKLER SYSTEMS BY
13 FULL-TIME MAINTENANCE EMPLOYEES OF A PROPERTY OWNER IF THE EMPLOYEES:

14 (I) ARE KNOWLEDGEABLE ABOUT FIRE SPRINKLER SYSTEMS; AND

15 (II) ARE ACTING IN THE PERFORMANCE OF THEIR ASSIGNED
16 DUTIES FOR THE PROPERTY OWNER;

17 (3) INSPECTIONS, TESTS, PLAN REVIEW, AND ENSURING THE
18 MAINTENANCE OF FIRE SPRINKLER SYSTEMS, EMERGENCY MAINTENANCE ACTIVITY
19 ON FIRE SPRINKLER SYSTEMS, OR RESTORATION TO ACTIVE SERVICE OF OPERATING
20 OR RECENTLY OPERATED FIRE SPRINKLER SYSTEMS BY MEMBERS OF STATE,
21 COUNTY, MUNICIPAL, CAREER, OR VOLUNTEER FIRE DEPARTMENTS, OR
22 AUTHORITIES WITH JURISDICTION IF THE MEMBERS ARE ACTING IN THEIR
23 CAPACITY AS MEMBERS OF THE FIRE DEPARTMENTS OR AUTHORITIES;

24 (4) INSTALLATION OF LIMITED AREA FIRE SPRINKLER SYSTEMS OR
25 EMERGENCY TEMPORARY REPAIRS ON FIRE SPRINKLER SYSTEMS PERFORMED BY
26 MASTER PLUMBERS IF THE PLUMBERS ARE ACTING IN ACCORDANCE WITH
27 REGULATIONS ADOPTED BY THE STATE FIRE PREVENTION COMMISSION; OR

28 (5) INSPECTIONS, TESTS, PREPARATION OF DESIGN AND SPECIFICATION
29 DOCUMENTS, HYDRAULIC CALCULATIONS, LAYOUT, AND PLAN REVIEW OF FIRE
30 SPRINKLER SYSTEMS BY MARYLAND PROFESSIONAL ENGINEERS IF THE ENGINEERS
31 ARE KNOWLEDGEABLE ABOUT FIRE SPRINKLER SYSTEMS.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 38A, § 3(f)(4) and (g)(1), (2), and (3).

34 In the introductory language of subsection (a) of this section, the
35 introductory phrase is added to indicate that exceptions exist.

36 In subsection (a)(1) of this section, the former phrase "unless the person

1 has complied with the licensing and regulatory requirements established
2 by the State Fire Prevention Commission" is deleted as redundant. The
3 State Fire Prevention Commission is required to establish a program to
4 license and regulate fire sprinkler contractors under § 9-902(a) of this
5 subtitle. Under this program, the State Fire Marshal issues licenses to
6 those who meet the requirements for licensure so a person who is licensed
7 by the State Fire Marshal has met the requirements established by the
8 State Fire Prevention Commission.

9 In subsection (a)(2) of this section, the former reference to an "employer" of
10 a person who is licensed by the State Fire Marshal is deleted as redundant
11 and included in the reference to a "contractor". The Public Safety Article
12 Review Committee notes this deletion for consideration by the General
13 Assembly.

14 In subsection (b)(4) of this section, the former reference to a "licensed"
15 master plumber is deleted as unnecessary because master plumbers are
16 licensed by the State Board of Plumbing.

17 In subsection (b)(5) of this section, the reference to "Maryland professional
18 engineer[s]" is substituted for the former reference to "Maryland registered
19 professional engineer" for consistency with terminology in the Business
20 Occupations and Professions Article.

21 The Public Safety Article Review Committee notes, for consideration by the
22 General Assembly, that subsection (b)(4) of this section is not limited to
23 plumbers licensed in the State, but that subsection (b)(5) of this section is
24 limited to professional engineers licensed in the State.

25 Defined terms: "Fire sprinkler contractor" § 9-901

26 "Person" § 1-101

27 9-904. DUTIES OF STATE FIRE MARSHAL.

28 THE STATE FIRE MARSHAL SHALL:

29 (1) ISSUE FIRE SPRINKLER CONTRACTORS LICENSES;

30 (2) COLLECT LICENSE FEES ESTABLISHED BY THE STATE FIRE
31 PREVENTION COMMISSION;

32 (3) KEEP RECORDS OF ALL FEES COLLECTED UNDER THIS SUBTITLE;

33 (4) PAY ALL MONEY COLLECTED UNDER THIS SUBTITLE INTO THE
34 GENERAL FUND; AND

35 (5) INVESTIGATE COMPLAINTS RELATED TO VIOLATIONS OF THIS
36 SUBTITLE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 38A, § 8(o).

3 In items (3) and (4) of this section, the phrase "under this subtitle" is
4 substituted for the former phrase "under this subsection" for accuracy and
5 to reflect the reorganization of the licensing of fire sprinkler contractors as
6 a subtitle in this revision.

7 Defined term: "Fire sprinkler contractor" § 9-901

8 9-905. VIOLATION OF SUBTITLE.

9 (A) PROHIBITED.

10 A PERSON MAY NOT KNOWINGLY VIOLATE THIS SUBTITLE.

11 (B) PENALTY.

12 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
13 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 DAYS OR A FINE
14 NOT EXCEEDING \$1,000 OR BOTH.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 38A, § 13(a), except as it related to violations of
17 regulations.

18 In subsection (b) of this section, the reference to a person who violates this
19 section being guilty "of a misdemeanor" is added to state expressly that
20 which was only implied in the former law. In this State, any crime that was
21 not a felony at common law and has not been declared a felony by statute
22 is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490
23 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Dutton v. State*, 123 Md.
24 373, 378 (1914); and *Williams v. State*, 4 Md. App. 342, 347 (1968).

25 Also in subsection (b) of this section, the reference to a person "on
26 conviction" being subject to certain penalties is added to state expressly
27 that which was only implied in the former law, and for consistency with
28 other penalty provisions in this and other revised articles of the Code.

29 Defined term: "Person" § 1-101

30 SUBTITLE 10. MISCELLANEOUS PROVISIONS.

31 9-1001. RESTRICTIONS ON USE OF BARBECUE GRILL.

32 (A) DEFINITIONS.

33 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
34 INDICATED.

1 (2) "BARBECUE GRILL" MEANS EQUIPMENT USED FOR OUTDOOR
2 COOKING THAT USES AS ITS HEAT SOURCE ELECTRICITY OR THE BURNING OF
3 CHARCOAL, LIQUID PROPANE GAS, OR OTHER FUEL.

4 (3) (I) "RESIDENTIAL DWELLING" MEANS A BUILDING OR PART OF A
5 BUILDING THAT PROVIDES LIVING OR SLEEPING FACILITIES FOR ONE OR MORE
6 INDIVIDUALS.

7 (II) "RESIDENTIAL DWELLING" INCLUDES A MULTIFAMILY
8 RESIDENTIAL DWELLING, HOTEL, MOTEL, BOARDINGHOUSE, LODGING HOUSE,
9 ROOMING HOUSE, INN, CLUB, OR DORMITORY.

10 (III) "RESIDENTIAL DWELLING" DOES NOT INCLUDE:

11 1. A SINGLE FAMILY RESIDENTIAL DWELLING; OR

12 2. A MULTIFAMILY RESIDENTIAL DWELLING IN WHICH THE
13 INDIVIDUAL DWELLING UNITS ARE ARRANGED IN A ROW, SIDE BY SIDE, AND NOT
14 CONSTRUCTED ABOVE EACH OTHER.

15 (B) IN GENERAL.

16 IN CHARLES COUNTY AND WICOMICO COUNTY, A PERSON MAY NOT USE A
17 BARBECUE GRILL:

18 (1) ON A BALCONY OF A RESIDENTIAL DWELLING; AND

19 (2) WITHIN 20 FEET OF ANY PART, INCLUDING A BALCONY, OF A
20 RESIDENTIAL DWELLING.

21 (C) PENALTIES.

22 A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO THE PENALTIES OF §
23 6-601 OF THIS ARTICLE.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 38A, § 67.

26 In subsection (a)(3)(iii)2 of this section, the phrase "arranged in a row" is
27 substituted for the former phrase "in a rowhouse format" for clarity.

28 Also in subsection (a)(3)(iii)2 of this section, the phrase "constructed above
29 each other" is substituted for the former phrase "superimposed above
30 another" for clarity.

31 In the introductory language of subsection (b) of this section, the former
32 phrase "for outdoor cooking", which modified using a barbecue grill, is
33 deleted as unnecessary because the definition of "barbecue grill" includes
34 the concept that it is used for outdoor cooking.

35 Defined term: "Person" § 1-101

1 GENERAL REVISOR'S NOTE TO SUBTITLE:

2 Former Art. 48, §§ 1 through 8, which were enacted in 1874 and regulated the
3 manufacture and sale of illuminating oils in the State, are deleted as obsolete.

4 TITLE 10. FIREWORKS AND SPARKLERS.

5 SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

6 10-101. DEFINITIONS.

7 (A) IN GENERAL.

8 IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

9 REVISOR'S NOTE: This subsection is new language added as the standard
10 introductory language to a definition section.

11 (B) 1.3 G FIREWORKS.

12 (1) "1.3 G FIREWORKS" MEANS SPECIAL FIREWORKS DESIGNED
13 PRIMARILY TO PRODUCE VISIBLE OR AUDIBLE EFFECTS BY COMBUSTION OR
14 EXPLOSION.

15 (2) "1.3 G FIREWORKS" INCLUDES:

16 (I) TOY TORPEDOES, RAILWAY TORPEDOES, FIRECRACKERS AND
17 SALUTES THAT DO NOT QUALIFY AS 1.4 G FIREWORKS, EXHIBITION DISPLAY PIECES,
18 ILLUMINATING PROJECTILES, INCENDIARY PROJECTILES, AND INCENDIARY
19 GRENADES;

20 (II) SMOKE PROJECTILES OR BOMBS CONTAINING EXPELLING
21 CHARGES BUT WITHOUT BURSTING CHARGES;

22 (III) FLASH POWDERS IN INNER UNITS NOT EXCEEDING 2 OUNCES
23 EACH, FLASH SHEETS IN INTERIOR PACKAGES, AND FLASH POWDER OR SPREADER
24 CARTRIDGES CONTAINING AN AMOUNT NOT EXCEEDING 72 GRAINS OF FLASH
25 POWDER EACH; AND

26 (IV) FLASH CARTRIDGES CONSISTING OF A PAPER CARTRIDGE
27 SHELL, SMALL ARMS PRIMER, AND FLASH COMPOSITION, NOT EXCEEDING 180
28 GRAINS, ALL ASSEMBLED IN ONE PIECE.

29 REVISOR'S NOTE: This subsection is new language derived without
30 substantive change from former Art. 38A, § 15(b).

31 In paragraph (2)(iii) of this subsection, the reference to "an amount not
32 exceeding" 72 grains is substituted for the former reference to "containing
33 not over" 72 grains for consistency within this subsection.

1 %The second sentence of former Art. 38A, § 15(b), which states that the "use
2 of the term `1.3 G fireworks' is based on United States Department of
3 Transportation regulations" is deleted as unnecessary and somewhat
4 inaccurate because the federal regulations do not use the term "1.3 G
5 fireworks" but rather classify similar explosives as "Division 1.3"
6 explosives.

7 Defined terms: "Fireworks" § 10-101

8 "1.4 G fireworks" § 10-101

9 (C) 1.4 G FIREWORKS.

10 (1) "1.4 G FIREWORKS" MEANS COMMON FIREWORKS DESIGNED
11 PRIMARILY TO PRODUCE VISIBLE EFFECTS BY COMBUSTION.

12 (2) "1.4 G FIREWORKS" INCLUDES:

13 (I) SMALL DEVICES CONTAINING LESS THAN 2 GRAINS OF
14 PYROTECHNIC COMPOSITION DESIGNED TO PRODUCE AN AUDIBLE EFFECT;

15 (II) ROMAN CANDLES, NOT EXCEEDING 10 BALLS, THAT HAVE A
16 TOTAL PYROTECHNIC COMPOSITION NOT EXCEEDING 20 GRAMS AND INSIDE TUBE
17 DIAMETER NOT EXCEEDING 3/8 INCH;

18 (III) SKY ROCKETS WITH STICKS, THAT HAVE A TOTAL
19 PYROTECHNIC COMPOSITION NOT EXCEEDING 20 GRAMS AND AN INSIDE TUBE
20 DIAMETER NOT EXCEEDING 1/2 INCH;

21 (IV) HELICOPTER-TYPE ROCKETS THAT HAVE A TOTAL
22 PYROTECHNIC COMPOSITION NOT EXCEEDING 20 GRAMS AND AN INSIDE TUBE
23 DIAMETER NOT EXCEEDING 1/2 INCH;

24 (V) WHEELS THAT HAVE A TOTAL PYROTECHNIC COMPOSITION
25 NOT EXCEEDING 60 GRAMS FOR EACH DRIVER UNIT OR 240 GRAMS FOR EACH WHEEL
26 AND AN INSIDE TUBE DIAMETER OF DRIVER UNITS NOT EXCEEDING 1/2 INCH;

27 (VI) ILLUMINATING TORCHES AND COLORED FIRE IN ANY FORM
28 THAT HAVE A TOTAL PYROTECHNIC COMPOSITION NOT EXCEEDING 100 GRAMS
29 EACH;

30 (VII) DIPPED STICKS THAT HAVE A PYROTECHNIC COMPOSITION
31 CONTAINING ANY PERCHLORATE NOT EXCEEDING 5 GRAMS;

32 (VIII) MINES OR SHELLS IN WHICH THE MORTAR IS AN INTEGRAL
33 PART, THAT HAVE A TOTAL PYROTECHNIC COMPOSITION NOT EXCEEDING 40 GRAMS;

34 (IX) FIRECRACKERS OR SALUTES WITH CASINGS THAT HAVE A
35 TOTAL PYROTECHNIC COMPOSITION NOT EXCEEDING 2 GRAINS EACH AND
36 EXTERNAL DIMENSIONS NOT EXCEEDING 1 1/2 INCHES IN LENGTH OR 1/4 INCH IN
37 DIAMETER; AND

1 (X) NOVELTIES THAT CONSIST OF TWO OR MORE 1.4 G FIREWORKS.

2 REVISOR'S NOTE: This subsection is new language derived without
3 substantive change from former Art. 38A, § 15(c).

4 In paragraph (2)(ii), (iii), (iv), (viii), and (ix) of this subsection, the former
5 references to grams "in weight" are deleted as unnecessary.

6 The second sentence of former Art. 38B, § 15(c), which states that the "use
7 of the term `1.4 G fireworks' is based on United States Department of
8 Transportation regulations", is deleted as unnecessary and somewhat
9 inaccurate because the federal regulations do not use the term "1.4 G
10 fireworks", but rather classify similar explosives as "Division 1.4"
11 explosives.

12 Defined terms: "Fireworks" § 10-101

13 "Pyrotechnic composition" § 10-101

14 (D) EXPLOSIVE COMPOSITION.

15 "EXPLOSIVE COMPOSITION" MEANS A MIXTURE OR SUBSTANCE THAT, WHEN
16 IGNITED, MAY CAUSE SUCH A GENERATION OF HIGHLY HEATED GASES THAT THE
17 RESULTING GASEOUS PRESSURES ARE CAPABLE OF PRODUCING DESTRUCTIVE
18 EFFECTS ON CONTIGUOUS OBJECTS.

19 REVISOR'S NOTE: This subsection is new language derived without
20 substantive change from former Art. 38A, § 15(e).

21 (E) FINISHING AND ASSEMBLING BUILDING.

22 "FINISHING AND ASSEMBLING BUILDING" MEANS A STRUCTURE IN WHICH
23 FIREWORKS ARE ASSEMBLED AND PACKED BUT ARE NOT MIXED OR PRESSED.

24 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 15(g).

25 The former reference to a "building" is deleted as included in the reference
26 to a "structure".

27 The only other changes are in style.

28 Defined term: "Fireworks" § 10-101

29 (F) FIREWORKS.

30 (1) "FIREWORKS" MEANS COMBUSTIBLE, IMPLOSIVE OR EXPLOSIVE
31 COMPOSITIONS, SUBSTANCES, COMBINATIONS OF SUBSTANCES, OR ARTICLES THAT
32 ARE PREPARED TO PRODUCE A VISIBLE OR AUDIBLE EFFECT BY COMBUSTION,
33 EXPLOSION, IMPLOSION, DEFLAGRATION, OR DETONATION.

1 (2) "FIREWORKS" INCLUDES 1.3 G FIREWORKS, 1.4 G FIREWORKS,
2 FIRECRACKERS, SQUIBS, ROCKETS, ROMAN CANDLES, FIRE BALLOONS, AND SIGNAL
3 LIGHTS.

4 (3) "FIREWORKS" DOES NOT INCLUDE:

5 (I) TOY PISTOLS, TOY CANES, TOY GUNS, OR OTHER DEVICES THAT
6 USE PAPER CAPS THAT CONTAIN 0.25 GRAINS OR LESS OF EXPLOSIVE COMPOSITION
7 IF THE DEVICES ARE CONSTRUCTED SO THAT A HAND CANNOT TOUCH THE CAP
8 WHEN THE CAP IS IN PLACE FOR USE;

9 (II) TOY PISTOL PAPER CAPS THAT CONTAIN LESS THAN 0.20
10 GRAINS OF EXPLOSIVE COMPOSITION;

11 (III) SPARKLERS THAT DO NOT CONTAIN CHLORATES OR
12 PERCHLORATES;

13 (IV) GROUND-BASED SPARKLING DEVICES THAT ARE NONAERIAL
14 AND NONEXPLOSIVE, AND ARE LABELED IN ACCORDANCE WITH THE
15 REQUIREMENTS OF THE U.S. CONSUMER PRODUCT SAFETY COMMISSION;

16 (V) PAPER WRAPPED SNAPPERS THAT CONTAIN LESS THAN 0.03
17 GRAINS OF EXPLOSIVE COMPOSITION; OR

18 (VI) ASH-PRODUCING PELLETS KNOWN AS "SNAKES" THAT DO NOT
19 CONTAIN MERCURY AND ARE NOT REGULATED BY THE U. S. DEPARTMENT OF
20 TRANSPORTATION.

21 REVISOR'S NOTE: This subsection is new language derived without
22 substantive change from former Art. 38A, § 15(a).

23 In paragraph (1) of this subsection, the former phrase "the purpose of" is
24 deleted as unnecessary.

25 In paragraph (2) of this subsection, the reference to "1.3 G fireworks [and]
26 1.4 G fireworks" is added for clarity.

27 In paragraph (3)(i) and (ii) of this subsection, the defined term "explosive
28 composition" is substituted for the former references to "explosive
29 compound" and "explosive mixture" for consistency within this paragraph.

30 In paragraph (3)(i) of this subsection, the reference to the "devices" that
31 are constructed is added for clarity.

32 Also in paragraph (3)(i) of this subsection, the reference to not being able to
33 "touch" the cap is substituted for the former reference to not being able to
34 "come in contact with" the cap for brevity.

35 Defined terms: "Explosive composition" § 10-101

36 "1.3 G fireworks" § 10-101

1 "1.4 G fireworks" § 10-101

2 (G) FIREWORKS PLANT.

3 (1) "FIREWORKS PLANT" MEANS LAND AND ANY BUILDING ON THE LAND
4 USED IN CONNECTION WITH THE MANUFACTURE, PACKAGING, REPACKAGING, OR
5 PROCESSING OF FIREWORKS.

6 (2) "FIREWORKS PLANT" INCLUDES A STORAGE BUILDING USED IN
7 CONNECTION WITH PLANT OPERATION.

8 REVISOR'S NOTE: This subsection is new language derived without
9 substantive change from former Art. 38A, § 15(f).

10 In paragraph (1) of this subsection, the former reference to "all" lands is
11 deleted as unnecessary.

12 Also in paragraph (1) of this subsection, the reference to buildings "used in
13 connection with" is substituted for the former reference to buildings "used
14 for or in connection with" for brevity. Similarly, in paragraph (2) of this
15 subsection, the reference to a building "used in connection with" is
16 substituted for the former reference to buildings "used with or in
17 connection with".

18 Defined terms: "Fireworks" § 10-101

19 "Storage building" § 10-101

20 (H) MIXING BUILDING.

21 "MIXING BUILDING" MEANS A BUILDING PRIMARILY USED TO MIX AND BLEND
22 PYROTECHNIC COMPOSITION OTHER THAN WET SPARKLER MIXES.

23 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 15(i).

24 The only changes are in style.

25 Defined term: "Pyrotechnic composition" § 10-101

26 (I) PRESS BUILDING.

27 "PRESS BUILDING" MEANS A BUILDING USED PRIMARILY FOR PRESSING OR
28 LOADING PYROTECHNIC COMPOSITION INTO TUBES OR CONTAINERS.

29 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 15(h).

30 The reference to the defined term "pyrotechnic composition" is substituted
31 for the former reference to pyrotechnic "powder" for consistency.

32 The only other changes are in style.

33 Defined term: "Pyrotechnic composition" § 10-101

1 (J) PYROTECHNIC COMPOSITION.

2 "PYROTECHNIC COMPOSITION" MEANS A CHEMICAL MIXTURE THAT ON
3 BURNING AND WITHOUT EXPLOSION PRODUCES VISIBLE OR BRILLIANT DISPLAYS,
4 BRIGHT LIGHTS, OR WHISTLES.

5 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 15(d).

6 The only changes are in style.

7 (K) STORAGE BUILDING.

8 "STORAGE BUILDING" MEANS A STRUCTURE IN WHICH FINISHED FIREWORKS
9 OR FIREWORKS IN ANY STATE OF PROCESSING ARE STORED, BUT IN WHICH
10 PROCESSING OR MANUFACTURING IS NOT PERFORMED.

11 REVISOR'S NOTE: This subsection is new language derived without
12 substantive change from the first sentence of former Art. 38A, § 15(j).

13 The former reference to a "building ... or facility" is deleted as included in
14 the comprehensive reference to a "structure".

15 As to the second sentence of former Art. 38A, § 15(j), *see* § 10-204(a) of this
16 title.

17 Defined term: "Fireworks" § 10-101

18 10-102. SCOPE OF TITLE.

19 (A) IN GENERAL.

20 THIS TITLE DOES NOT APPLY TO:

21 (1) THE SALE, POSSESSION, OR USE OF FIREWORKS TO OR BY THE
22 FEDERAL GOVERNMENT OR A STATE OR A POLITICAL SUBDIVISION OF A STATE;

23 (2) THE SALE, POSSESSION, OR USE OF A COMBUSTIBLE OR EXPLOSIVE
24 PREPARATION TO OR BY AN INDUSTRIAL OR COMMERCIAL BUSINESS FOR USE AS A
25 SIGNAL OR OTHERWISE IN THE NORMAL COURSE OF BUSINESS;

26 (3) THE POSSESSION OR USE OF A FUSEE, RAILROAD TORPEDO, ROCKET,
27 VERY SIGNAL CARTRIDGE, OR OTHER SIGNAL DEVICE THAT IS ESSENTIAL TO AND IS
28 KEPT AND USED TO PROMOTE SAFETY IN THE OPERATION OF A MOTOR VEHICLE,
29 BOAT, RAILROAD, OR AIRCRAFT;

30 (4) THE USE OF A FLARE, SIGNAL PISTOL, OR OTHER EQUIPMENT IF
31 USED AS A SIGNAL IN AN ATHLETIC CONTEST OR FOR A SIMILAR PURPOSE; OR

32 (5) SUBJECT TO THE TERMS AND CONDITIONS OF A PERMIT ISSUED BY
33 THE STATE FIRE MARSHAL UNDER SUBSECTION (B) OF THIS SECTION, THE SALE,
34 POSSESSION, OR USE OF AN EXPLOSIVE DEVICE OR PREPARATION WITH A

1 SLOW-BURNING FUSE ROPE TO OR BY A FARMER FOR CONTROLLING DESTRUCTIVE
2 ANIMALS.

3 (B) PERMITS -- CONTROLLING DESTRUCTIVE ANIMALS.

4 THE STATE FIRE MARSHAL OR A STATE GAME WARDEN AS A REPRESENTATIVE
5 OF THE STATE FIRE MARSHAL MAY GRANT A NONTRANSFERABLE PERMIT TO A
6 FARMER TO USE AN EXPLOSIVE DEVICE OR PREPARATION DESCRIBED UNDER
7 SUBSECTION (A)(5) OF THIS SECTION FOR CONTROLLING DESTRUCTIVE ANIMALS.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 38A, § 24.

10 In the introductory language of subsection (a) of this section, the reference
11 to "this title" is substituted for the former reference to "this subtitle" for
12 clarity to reflect the reorganization of material in this revision.

13 In subsection (a)(2) of this section, the reference to an industrial or
14 commercial "business" is substituted for the former reference to industrial
15 or commercial "concerns" for clarity.

16 Also in subsection (a)(2) of this section, the former reference to
17 combustibles or explosives "required by" business is deleted as surplusage.

18 In subsection (a)(4) of this section, the disjunctive "or" is substituted for
19 the conjunctive "and" to clarify that one of the types of signals may be
20 used, not necessarily all of the ones listed.

21 In subsections (a)(5) and (b) of this section, the former references to "birds"
22 are deleted as included in the references to "animals".

23 In subsection (a)(5) of this section, the former reference to "firecrackers,
24 salutes or cherry bombs" is deleted as included in the reference to an
25 "explosive device or preparation".

26 In subsection (b) of this section, the reference to the use of "an explosive
27 device or preparation described under subsection (a)(5) of this section" is
28 added for clarity.

29 Also in subsection (b) of this section and throughout this subtitle, the
30 reference to a "permit" is substituted for the former reference to a "special
31 permit" because there is no clear distinction among the permits issued by
32 the State Fire Marshal under this subtitle.

33 Defined terms: "Fireworks" § 10-101

34 "State" § 1-101

35 10-103. AUTHORITY TO GRANT PERMITS TO DISCHARGE FIREWORKS.

36 (A) IN GENERAL.

1 SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, THE STATE FIRE
2 MARSHAL MAY ISSUE A PERMIT TO AUTHORIZE THE DISCHARGE OF FIREWORKS IN A
3 PLACE WHERE THE DISCHARGE OF FIREWORKS IS LEGAL.

4 (B) FINDINGS REQUIRED BY STATE FIRE MARSHAL.

5 THE STATE FIRE MARSHAL SHALL ISSUE A PERMIT TO DISCHARGE FIREWORKS
6 ONLY IF THE STATE FIRE MARSHAL DETERMINES THAT THE PROPOSED DISCHARGE
7 OF FIREWORKS WILL:

8 (1) NOT ENDANGER HEALTH OR SAFETY OR DAMAGE PROPERTY; AND

9 (2) BE SUPERVISED BY AN EXPERIENCED AND QUALIFIED PERSON WHO
10 HAS PREVIOUSLY SECURED WRITTEN AUTHORITY FROM THE STATE FIRE MARSHAL
11 TO DISCHARGE FIREWORKS.

12 (C) SCOPE OF PERMIT.

13 A PERMIT TO DISCHARGE FIREWORKS:

14 (1) DOES NOT AUTHORIZE THE HOLDER OF THE PERMIT TO POSSESS OR
15 DISCHARGE FIREWORKS IN VIOLATION OF AN ORDINANCE OR REGULATION OF THE
16 POLITICAL SUBDIVISION WHERE THE FIREWORKS ARE TO BE DISCHARGED; AND

17 (2) DOES NOT RELIEVE AN APPLICANT FOR A PERMIT FROM ANY
18 REQUIREMENT TO OBTAIN ANY ADDITIONAL LICENSE OR AUTHORITY FROM THE
19 GOVERNING BODY OF THE POLITICAL SUBDIVISION WHERE THE FIREWORKS ARE TO
20 BE DISCHARGED.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from the first and second sentences and the fifth sentence, as it
23 related to findings required by the State Fire Marshal, of former Art. 38A,
24 § 18(a)(1).

25 In subsections (a) and (b) of this section, the reference to the "discharge" of
26 fireworks is substituted for the former reference to the "display" of
27 fireworks for consistency within this subtitle to avoid the implication that
28 a "display" means an exhibit without any discharge.

29 In subsection (a) of this section, the introductory clause "[s]ubject to
30 subsections (b) and (c) of this section" is added for clarity.

31 In subsection (b)(1) of this section, the former reference to endangering the
32 health or safety "of persons in the locality" is deleted as implicit for brevity.
33 Similarly, the former reference to damaging property "belonging to others"
34 is deleted.

35 In subsection (c)(1) and (2) of this section, the references to a "political
36 subdivision" are substituted for the former reference to a "locality" for
37 clarity and consistency.

1 %In subsection (c)(1) of this section, the reference to "where the fireworks
2 are to be discharged" is substituted for the former reference to "where the
3 display is to be made" for clarity and consistency. Correspondingly, in
4 subsection (c)(2) of this section, the reference to "where the fireworks are to
5 be discharged" is added.

6 Also in subsection (c)(1) of this section, the former reference to an
7 ordinance or regulation that is "in effect" is deleted as surplusage.

8 Defined terms: "Fireworks" § 10-101

9 "Person" § 1-101

10 10-104. PERMIT TO DISCHARGE FIREWORKS.

11 (A) REQUIRED.

12 A PERSON MUST HAVE A PERMIT TO DISCHARGE FIREWORKS AS PROVIDED BY
13 THIS SUBTITLE BEFORE THE PERSON:

14 (1) DISCHARGES FIREWORKS; OR

15 (2) POSSESSES FIREWORKS WITH THE INTENT TO DISCHARGE
16 FIREWORKS OR TO ALLOW THE DISCHARGE OF FIREWORKS.

17 (B) APPLICATION.

18 AN APPLICANT FOR A PERMIT TO DISCHARGE FIREWORKS SHALL:

19 (1) APPLY TO THE STATE FIRE MARSHAL FOR THE PERMIT AT LEAST 10
20 DAYS BEFORE THE DATE OF DISCHARGE;

21 (2) PAY TO THE STATE FIRE MARSHAL A PERMIT FEE OF \$50; AND

22 (3) POST A BOND WITH THE STATE FIRE MARSHAL IN ACCORDANCE
23 WITH § 10-105 OF THIS SUBTITLE.

24 (C) LATE FEE.

25 IF THE STATE FIRE MARSHAL DOES NOT RECEIVE THE APPLICATION FOR A
26 PERMIT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION AT LEAST 10 DAYS
27 BEFORE THE DATE OF THE DISCHARGE, THE STATE FIRE MARSHAL SHALL CHARGE
28 THE APPLICANT A LATE FEE OF \$50 IN ADDITION TO ALL REQUIRED FEES.

29 (D) EXEMPTION FROM FEE.

30 THE PERMIT FEE REQUIRED UNDER SUBSECTION (B)(2) OF THIS SECTION AND
31 THE LATE FEE REQUIRED UNDER SUBSECTION (C) OF THIS SECTION DO NOT APPLY
32 TO A VOLUNTEER FIRE DEPARTMENT OR VOLUNTEER AMBULANCE AND RESCUE
33 COMPANY.

34 (E) PERMIT NONTRANSFERABLE.

1 A PERMIT TO DISCHARGE FIREWORKS IS NONTRANSFERABLE.

2 REVISOR'S NOTE: This section is new language derived without substantive
3 change from former Art. 38A, §§ 16(a)(2), and the second sentence, and, as
4 it related to a prohibition against the discharge of fireworks or possession
5 of fireworks without a permit, the first sentence of (1) and 18(a)(2) and (3),
6 and the third and fourth sentences and, as it related to permit transfer, the
7 fifth sentence of § 18(a)(1) and, as it related to requiring a bond to be
8 posted, the sixth sentence of § 18(a)(1).

9 In subsections (b) and (c) of this section, references to the "discharge[s]" of
10 fireworks are substituted for the former references to the "display" of
11 fireworks for clarity and consistency.

12 In subsection (b) of this section, the reference to an "applicant for a permit
13 to discharge" is substituted for the former reference to "applications for
14 permits for public display" for clarity and consistency within this subtitle.

15 In subsection (b)(1) and (2) of this section, the references to the "State Fire
16 Marshal" are added for clarity.

17 In subsection (b)(3) of this section, the reference to posting a bond "in
18 accordance with § 10-105 of this subtitle" is added for clarity.

19 In subsection (c) of this section, the cross-reference to a permit "required
20 under subsection (b) of this section" is substituted for the former reference
21 to a permit required "for public display" for clarity.

22 As to the balance of former Art. 38A, § 16(a)(1), *see* § 10-110(a) of this
23 subtitle.

24 As to the balance of former Art. 38A, § 18(a)(1), *see* § 10-105 of this
25 subtitle.

26 Defined terms: "Fireworks" § 10-101

27 "Person" § 1-101

28 10-105. BOND OR INSURANCE.

29 (A) IN GENERAL.

30 (1) BEFORE ISSUING A PERMIT TO DISCHARGE FIREWORKS, THE STATE
31 FIRE MARSHAL SHALL REQUIRE AN APPLICANT TO FURNISH A SURETY BOND WITH
32 CORPORATE SURETY APPROVED BY THE STATE FIRE MARSHAL OR AN APPROVED
33 LIABILITY AND PROPERTY INSURANCE POLICY.

34 (2) THE STATE FIRE MARSHAL SHALL PRESCRIBE THE AMOUNT OF THE
35 BOND OR POLICY.

36 (3) THE BOND OR POLICY:

1 (I) SHALL BE CONDITIONED ON THE PAYMENT OF ALL DAMAGES
 2 TO PERSONS OR PROPERTY CAUSED BY THE DISCHARGE OR FIREWORKS DESCRIBED
 3 IN THE PERMIT;

4 (II) SHALL BE PAYABLE TO THE STATE; AND

5 (III) MAY BE ENFORCED BY A PERSON WHO SUFFERS DAMAGE
 6 CAUSED BY THE DISCHARGE OF FIREWORKS DESCRIBED IN THE PERMIT BY SUIT
 7 FILED IN THE NAME OF THE STATE FOR THE BENEFIT OF THE PERSON.

8 (B) CLAIMS.

9 IF CLAIMS UNDER A BOND OR POLICY REQUIRED UNDER THIS SUBTITLE ARE
 10 FOR AN AMOUNT GREATER THAN THE PENAL SUM OF THE BOND OR AMOUNT OF THE
 11 POLICY, THE CLAIMS SHALL BE PAYABLE PRO RATA TO THE AMOUNT OF THE PENAL
 12 SUM OF THE BOND OR AMOUNT OF THE POLICY.

13 REVISOR'S NOTE: This section is new language derived without substantive
 14 change from the sixth, seventh, and eighth sentences of former Art. 38A, §
 15 18(a)(1).

16 In subsection (a)(3)(iii) of this section, the reference to damage "caused by
 17 the discharge of fireworks described in the permit" is substituted for the
 18 former reference to damage "as aforesaid" for clarity.

19 In subsection (b) of this section, the former reference to
 20 "executions ... issu[ing] accordingly" is deleted as implicit in the
 21 requirement that the claims be payable pro rata.

22 Defined terms: "Fireworks" § 10-101

23 "Person" § 1-101

24 10-106. WORKERS' COMPENSATION; ACCIDENT INSURANCE.

25 AN APPLICANT FOR A PERMIT SHALL PROVIDE:

26 (1) WORKERS' COMPENSATION COVERAGE AS REQUIRED BY THE
 27 MARYLAND WORKERS' COMPENSATION ACT; AND

28 (2) FOR OPERATORS NOT COVERED BY WORKERS' COMPENSATION,
 29 APPROVED ACCIDENT INSURANCE COVERAGE IN AMOUNTS THAT THE STATE FIRE
 30 MARSHAL PRESCRIBES.

31 REVISOR'S NOTE: This section is new language derived without substantive
 32 change from the ninth and tenth sentences of former Art. 38A, § 18(a)(1).

33 In the introductory language of this section, the reference to "[a]n
 34 applicant for a permit" is added to clarify who is responsible for providing
 35 workers' compensation or accident insurance coverage.

1 10-107. INSPECTIONS AND INVESTIGATIONS FOR PERMITS.

2 THE STATE FIRE MARSHAL MAY DEPUTIZE THE CHIEF OR ANOTHER MEMBER
3 OF A LOCAL FIRE DEPARTMENT OR ANOTHER QUALIFIED OFFICIAL TO INSPECT,
4 INVESTIGATE, AND RECEIVE APPLICATIONS FOR PERMITS.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from the twelfth sentence of former Art. 38A, § 18(a)(1).

7 The reference to a "qualified" official is substituted for the former
8 reference to a "suitable" official to better indicate an appropriate level of
9 ability.

10 The former reference to the official "act[ing] as [the State Fire Marshal's]
11 deputy" is deleted as surplusage.

12 10-108. ADVERTISING DISCHARGE OF FIREWORKS.

13 A PERSON MAY NOT ADVERTISE IN WRITTEN OR PRINTED FORM THAT A
14 FIREWORKS DISPLAY OR DISCHARGE WILL TAKE PLACE IN BALTIMORE CITY UNLESS
15 THE ADVERTISEMENT STATES:

16 (1) THAT THE PROMOTER IS COVERED BY A POLICY OF LIABILITY
17 INSURANCE; AND

18 (2) THE NAME OF THE INSURER AND THE POLICY NUMBER OF THE
19 INSURANCE POLICY.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 38A, § 18(b).

22 The reference to a fireworks "discharge" is added for clarity and
23 consistency within this subtitle.

24 The Public Safety Article Review Committee notes, for the consideration of
25 the General Assembly, that this section is limited to "written or printed"
26 advertisements. The General Assembly may wish to include broadcast and
27 electronic advertisements.

28 Defined terms: "Fireworks" § 10-101

29 "Person" § 1-101

30 10-109. REGULATIONS.

31 THE STATE FIRE PREVENTION COMMISSION SHALL ADOPT REGULATIONS TO
32 CARRY OUT THIS SUBTITLE.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from the eleventh sentence of former Art. 38A, § 18(a)(1).

35 The reference to "carry[ing] out" this subtitle is substituted for the former

1 reference to "the enforcement of this subtitle" for consistency with similar
2 references throughout the revised articles of the Code.

3 10-110. PROHIBITED ACTS.

4 (A) PERMIT FOR DISCHARGE OR POSSESSION OF FIREWORKS.

5 UNLESS THE PERSON HOLDS A PERMIT ISSUED UNDER THIS SUBTITLE, A
6 PERSON MAY NOT:

7 (1) DISCHARGE FIREWORKS; OR

8 (2) POSSESS FIREWORKS:

9 (I) WITH INTENT TO DISCHARGE OR ALLOW THE DISCHARGE OF
10 THE FIREWORKS IN VIOLATION OF THIS SUBTITLE; OR

11 (II) FOR THE PURPOSE OF DISPOSING OR SELLING THE FIREWORKS
12 TO A PERSON FOR USE OR DISCHARGE WITHOUT A PERMIT, IF A PERMIT IS REQUIRED
13 BY THIS SUBTITLE.

14 (B) UNLAWFUL SALE.

15 (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A PERSON
16 MAY NOT SELL FIREWORKS TO ANOTHER PERSON WITHOUT A PERMIT ISSUED
17 UNDER THIS SUBTITLE.

18 (2) (I) A PERSON LICENSED BY THE STATE FIRE MARSHAL UNDER
19 SUBTITLE 2 OF THIS TITLE MAY SELL OR DELIVER FIREWORKS TO A BONA FIDE
20 DISTRIBUTOR, JOBBER, OR WHOLESALER WITH A PRINCIPAL PLACE OF BUSINESS IN
21 A STATE WHERE THE SALE OR POSSESSION OF FIREWORKS IS ALLOWED.

22 (II) THE STATE FIRE MARSHAL MAY REQUIRE A PERSON WHO IS AN
23 OUT-OF-STATE DISTRIBUTOR, JOBBER, OR WHOLESALER TO SUBMIT A CERTIFICATE
24 ISSUED BY THE PERSON'S STATE OF OPERATION THAT DEMONSTRATES AUTHORITY
25 TO BUY AND RECEIVE FIREWORKS.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 38A, § 16(b) and the first sentence of (a)(1).

28 In subsection (b)(1) of this section, the introductory clause is added to
29 clarify that exceptions exist. *See, e.g.*, § 10-102 of this subtitle.

30 In subsection (b)(2)(i) of this section, the reference to a "person" is
31 substituted for the former reference to a "manufacturer" to reflect the
32 terminology used in Subtitle 2 of this title. *See, e.g.*, § 10-201 of this title.

33 Also in subsection (b)(2)(i) of this section, the reference to "[s]ubtitle 2 of
34 this title" is substituted for the former reference to "this subtitle" to reflect
35 the revision of the former provisions relating to the licensing of
36 manufacturers in Subtitle 2 of this title.

1 %In subsection (b)(2)(ii) of this section, the reference to a certificate that
2 "demonstrates authority" is substituted for the former reference to a
3 certificate "of permission or approval" for brevity and clarity.

4 Defined terms: "Fireworks" § 10-101

5 "Person" § 1-101

6 "State" § 1-101

7 10-111. PENALTY PROVISIONS.

8 (A) PENALTY FOR POSSESSING OR DISCHARGING FIREWORKS.

9 A PERSON WHO POSSESSES OR DISCHARGES FIREWORKS IN VIOLATION OF THIS
10 SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A
11 FINE NOT EXCEEDING \$250 FOR EACH OFFENSE.

12 (B) PENALTY FOR SELLING FIREWORKS.

13 A PERSON WHO SELLS FIREWORKS IN VIOLATION OF THIS SUBTITLE IS GUILTY
14 OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING
15 \$1,000 FOR EACH OFFENSE.

16 (C) SEIZURE AND FORFEITURE OF FIREWORKS.

17 (1) AT THE EXPENSE OF THE OWNER, THE STATE FIRE MARSHAL SHALL
18 SEIZE AND REMOVE ALL FIREWORKS POSSESSED OR SOLD IN VIOLATION OF THIS
19 SUBTITLE.

20 (2) FIREWORKS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION
21 SHALL BE FORFEITED AND DESTROYED.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 38A, § 17.

24 In subsection (c)(2) of this section, the former reference to forfeiting "the
25 ownership" of the fireworks is deleted for brevity.

26 Defined terms: "Fireworks" § 10-101

27 "Person" § 1-101

28 10-112. SALE OF SPARKLERS AND SPARKLING DEVICES TO MINORS PROHIBITED.

29 (A) IN GENERAL.

30 A PERSON MAY NOT SELL SPARKLERS OR SPARKLING DEVICES TO A PERSON
31 UNDER THE AGE OF 16 YEARS.

32 (B) PENALTY.

33 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
34 ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000.

1 REVISOR'S NOTE: This section formerly was Art. 38A, § 16A.

2 The only changes are in style.

3 Defined term: "Person" § 1-101

4 10-113. REGISTRATION OF DISTRIBUTORS OR WHOLESALERS OF SPARKLERS OR
5 SPARKLING DEVICES.

6 (A) SCOPE OF SECTION.

7 THIS SECTION APPLIES TO A DISTRIBUTOR OR WHOLESALER OF SPARKLERS OR
8 SPARKLING DEVICES WHO:

9 (1) INTENDS TO CONDUCT BUSINESS IN THE STATE; OR

10 (2) SELLS, SHIPS, OR ASSIGNS FOR SALE IN THE STATE THE PRODUCTS
11 OF THE DISTRIBUTOR OR WHOLESALER.

12 (B) REGISTRATION REQUIRED.

13 A DISTRIBUTOR OR WHOLESALER SHALL REGISTER ANNUALLY WITH THE
14 STATE FIRE MARSHAL ON FORMS THE STATE FIRE MARSHAL PROVIDES.

15 (C) ANNUAL FEE FOR REGISTRATION.

16 THE ANNUAL FEE FOR REGISTRATION UNDER THIS SECTION IS \$750.

17 (D) PENALTY.

18 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
19 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE
20 NOT EXCEEDING \$1,000 OR BOTH.

21 REVISOR'S NOTE: This section formerly was Art. 38A, § 19A.

22 In subsection (b) of this section, the former references to the "[o]ffice" of the
23 State Fire Marshal are deleted for consistency.

24 The only other changes are in style.

25 Defined term: "Person" § 1-101

26 GENERAL REVISOR'S NOTE TO SUBTITLE:

27 Former Art. 38A, § 15(k), which defined "warehouse", is deleted because the
28 term was not used in the provisions covered by the definition.

29 Former Art. 38A, § 25, which provided for severability, is deleted in light of Art.
30 1, § 23, which provides the same effect.

SUBTITLE 2. FIREWORKS PLANTS.

10-201. LICENSE TO OPERATE PLANT, MANUFACTURE, STORE.

(A) LICENSE TO OPERATE PLANT.

(1) ONLY THE STATE FIRE MARSHAL MAY ISSUE A LICENSE TO OPERATE A FIREWORKS PLANT.

(2) A PERSON SHALL BE LICENSED BY THE STATE FIRE MARSHAL BEFORE THE PERSON MAY OPERATE A FIREWORKS PLANT IN THE STATE.

(3) A LICENSE TO OPERATE A FIREWORKS PLANT ISSUED UNDER THIS SUBTITLE AUTHORIZES THE LICENSEE TO:

(I) MANUFACTURE, PROCESS, AND STORE 1.4 G FIREWORKS, SPARKLERS, SPARKLING DEVICES, ROCKETS, AND ROMAN CANDLES AS AUTHORIZED UNDER THIS SUBTITLE; AND

(II) STORE 1.4 G FIREWORKS AND 1.3 G FIREWORKS AT AN APPROVED LOCATION IN A STORAGE BUILDING APPROVED BY THE STATE FIRE MARSHAL OR A LOCAL AUTHORITY HAVING JURISDICTION OVER LOCAL FIRE PREVENTION CODES.

(B) COMPLIANCE WITH SUBTITLE REQUIRED FOR ISSUING OR RENEWING OF LICENSE.

EACH FIREWORKS PLANT IN THE STATE, REGARDLESS OF WHEN CONSTRUCTED, MUST CONFORM TO THE REQUIREMENTS OF THIS SUBTITLE BEFORE A LICENSE TO OPERATE A FIREWORKS PLANT IS ISSUED OR RENEWED.

(C) DETERMINATION OF COMPLIANCE BEFORE LICENSURE.

BEFORE THE STATE FIRE MARSHAL ISSUES OR RENEWS A LICENSE TO OPERATE A FIREWORKS PLANT:

(1) THE STATE FIRE MARSHAL, OR A DESIGNEE OF THE STATE FIRE MARSHAL, SHALL:

(I) INSPECT THE FIREWORKS PLANT FOR COMPLIANCE WITH THIS SUBTITLE AND REGULATIONS ADOPTED UNDER THIS SUBTITLE; AND

(II) FIND THE FIREWORKS PLANT TO BE IN FULL COMPLIANCE WITH THIS SUBTITLE AND THE REGULATIONS ADOPTED UNDER THIS SUBTITLE;

(2) EACH UNIT OF THE STATE OR POLITICAL SUBDIVISION OF THE STATE THAT IS RESPONSIBLE FOR DETERMINING COMPLIANCE WITH OTHER APPLICABLE STATUTES, ORDINANCES, AND REGULATIONS SHALL:

1 (I) DETERMINE WHETHER THE FIREWORKS PLANT IS IN
2 COMPLIANCE WITH THE OTHER APPLICABLE STATUTES, ORDINANCES, AND
3 REGULATIONS; AND

4 (II) REPORT THE RESULTS OF THE DETERMINATION TO THE STATE
5 FIRE MARSHAL; AND

6 (3) THE STATE FIRE MARSHAL MUST RECEIVE A REPORT FROM EACH
7 UNIT OF THE STATE OR POLITICAL SUBDIVISION OF THE STATE THAT IS
8 RESPONSIBLE FOR DETERMINING COMPLIANCE WITH APPLICABLE STATUTES,
9 ORDINANCES, AND REGULATIONS, THAT STATES THAT THE FIREWORKS PLANT IS IN
10 FULL COMPLIANCE.

11 (D) PRIOR CONVICTION.

12 THE STATE FIRE MARSHAL MAY DENY A LICENSE TO OPERATE A FIREWORKS
13 PLANT TO AN APPLICANT WHO HAS BEEN CONVICTED OF A FELONY UNDER FEDERAL
14 LAW OR ANY STATE LAW.

15 (E) TERM OF LICENSE.

16 THE TERM OF A LICENSE MAY NOT EXCEED 1 YEAR.

17 (F) LICENSING FEE.

18 AN APPLICANT SHALL PAY TO THE STATE FIRE MARSHAL A LICENSE FEE OF
19 \$750.

20 (G) LICENSE SUSPENSION AND REVOCATION.

21 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OR (3) OF THIS SUBSECTION,
22 IF A LICENSEE COMMITS A VIOLATION OF THIS SUBTITLE OR A REGULATION
23 ADOPTED BY THE STATE FIRE PREVENTION COMMISSION UNDER THIS SUBTITLE,
24 THE STATE FIRE MARSHAL MAY SUSPEND THE LICENSE OF THE LICENSEE FOR NOT
25 MORE THAN 30 DAYS.

26 (2) THE STATE FIRE MARSHAL SHALL SUSPEND FOR 30 DAYS THE
27 LICENSE OF A LICENSEE WHO, WITHIN 5 YEARS OF COMMITTING A FIRST VIOLATION,
28 COMMITS A SECOND VIOLATION OF THIS SUBTITLE OR A REGULATION ADOPTED BY
29 THE STATE FIRE PREVENTION COMMISSION UNDER THIS SUBTITLE.

30 (3) THE STATE FIRE MARSHAL SHALL REVOKE THE LICENSE OF A
31 LICENSEE WHO, WITHIN 5 YEARS OF COMMITTING A FIRST VIOLATION, COMMITS A
32 THIRD VIOLATION, OF THIS SUBTITLE OR A REGULATION ADOPTED BY THE STATE
33 FIRE PREVENTION COMMISSION UNDER THIS SUBTITLE.

34 (4) ON SUSPENDING OR REVOKING A LICENSE UNDER THIS
35 SUBSECTION, THE STATE FIRE MARSHAL SHALL:

1 (I) FILE AND KEEP A STATEMENT OF THE NATURE OF THE
2 VIOLATION THAT RESULTED IN THE SUSPENSION OR REVOCATION; AND

3 (II) PROVIDE A COPY OF THE STATEMENT TO THE OWNER AND THE
4 OPERATOR OF THE FIREWORKS PLANT.

5 (5) (I) IF THE STATE FIRE MARSHAL SUSPENDS, REVOKES, OR
6 REFUSES TO RENEW A LICENSE, THE STATE FIRE MARSHAL OR DESIGNEE OF THE
7 STATE FIRE MARSHAL SHALL:

8 1. DETERMINE WHETHER THE CONTINUED PRESENCE OF
9 EXPLOSIVE COMPOSITION WITHIN THE FIREWORKS PLANT CONSTITUTES A DANGER
10 TO PUBLIC SAFETY; AND

11 2. IF THERE IS A FINDING OF A DANGER TO PUBLIC SAFETY,
12 REMOVE AND DISPOSE OF THE EXPLOSIVE COMPOSITION.

13 (II) IF THE STATE FIRE MARSHAL DETERMINES THAT THE DANGER
14 TO PUBLIC SAFETY UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS A CLEAR AND
15 PRESENT DANGER, THE STATE FIRE MARSHAL OR DESIGNEE OF THE STATE FIRE
16 MARSHAL SHALL REMOVE AND DISPOSE OF THE EXPLOSIVE COMPOSITION EVEN IF
17 AN APPEAL IS PENDING.

18 REVISOR'S NOTE: Subsections (a)(1) and (3) and (b) through (f) of this section
19 are new language derived without substantive change from former Art.
20 38A, §§ 20(e), 19(a), (f), and (g), and the first and fourth sentences of (e).

21 Subsection (a)(2) of this section is standard language added to state
22 affirmatively that an individual must be licensed to operate a fireworks
23 plant in the State.

24 In subsection (a)(3) of this section, the former reference to
25 "manufactur[ing] fireworks, sparklers, or sparkling devices" is deleted as
26 included in the reference to "operat[ing] a fireworks plant".

27 In subsection (a)(3)(i) of this section, the reference to "rockets, and Roman
28 candles" is retained although arguably included in the defined term "1.4 G
29 fireworks". However, the Public Safety Article Review Committee notes,
30 for the consideration of the General Assembly, that the defined term "1.4 G
31 fireworks" does not include all kinds of rockets or Roman candles.

32 In subsection (a)(3)(ii) of this section, the reference to the defined term "1.3
33 G fireworks" is substituted for the former reference to "1.3 G display
34 fireworks" for consistency.

35 In subsection (b) of this section, the reference to a license "to operate a
36 fireworks plant" is added for clarity.

37 Also in subsection (b) of this section, the reference to a license being
38 "issued or renewed" is substituted for the former reference to the granting

- 1 of a "new" license or renewal of a "currently effective" license for brevity.
- 2 In subsection (c)(1)(ii) of this section, the reference to being "in full
3 compliance" is substituted for the former reference to "wholly in
4 compliance" for clarity.
- 5 In subsection (c)(2) of this section, the reference to a "unit ... that is
6 responsible for determining compliance with other applicable statutes,
7 ordinances, and regulations" is substituted for the former reference to
8 "agency responsible" for clarity.
- 9 In subsection (c)(3) of this section, the reference to the "unit of the State or
10 political subdivision of the State that is responsible for determining
11 compliance" is substituted for the former reference to "appropriate"
12 agencies for clarity.
- 13 Also in subsection (c)(3) of this section, the reference to compliance "with
14 the applicable statutes, ordinances, and regulations" is added for clarity.
- 15 In subsection (d) of this section, the reference to a "felony under federal law
16 or any state law" is substituted for the former reference to "a crime defined
17 as a felony under federal law or the laws of the state in which the
18 conviction was adjudged, regardless of point in time" for brevity.
- 19 Also in subsection (d) of this section, the reference to a license "to operate
20 a fireworks plant" is substituted for the former reference to a "fireworks
21 manufacturing" license for consistency within this subtitle.
- 22 In subsection (e) of this section, the reference to "[t]he term of a license" is
23 substituted for the former statement that "[a] license ... shall be issued for
24 no longer than" for consistency.
- 25 In subsection (f) of this section, the reference to "[a]n applicant" is added to
26 state affirmatively that an applicant must pay the licensing fee to operate
27 a fireworks plant in the State.
- 28 In subsection (g) of this section, the former reference to the "additional
29 effect" of a violation is deleted as unnecessary.
- 30 In subsection (g)(1) of this section, the introductory clause "[e]xcept as
31 provided in paragraph (2) or (3) of this subsection" is added for clarity.
- 32 Also in subsection (g)(1) of this section, the reference to a "licensee" is
33 added to clarify who is committing a violation.
- 34 Also in subsection (g)(1) of this section, the word "may" is substituted for
35 the former phrase "at the discretion" for brevity.
- 36 In subsection (g)(2) and (3) of this section, the references to the "State Fire
37 Marshal" are added to clarify who is responsible for suspending or

1 revoking a license.

2 In subsection (g)(4) of this section, the former reference to "finding a
3 violation" is deleted as included in the reference to "suspending or revoking
4 a license".

5 In subsection (g)(4)(i) of this section, the reference to "file and keep" is
6 substituted for the former reference to "file in his office" for clarity.

7 Also in subsection (g)(4)(i) of this section, the reference to the nature of the
8 violation "that resulted in the suspension or revocation" is added for
9 clarity.

10 In subsection (g)(5)(i)1 of this section, the reference to the "presence" of
11 explosive composition is substituted for the former reference to the
12 "maintenance" of explosive composition for clarity.

13 In subsection (g)(5)(i)2 of this section, the reference to the State Fire
14 Marshal or designee "remov[ing] and dispos[ing]" is substituted for the
15 former reference to the State Fire Marshal or designee "assum[ing]
16 responsibility for the removal and disposal" for brevity.

17 In subsection (g)(5)(ii) of this section, the reference to "the State Fire
18 Marshal or designee of the State Fire Marshal ... remov[ing] and
19 dispos[ing] of the explosive composition" is substituted for the former
20 reference that "this subsection appl[ies]" for clarity.

21 Defined terms: "Explosive composition" § 10-101

22 "Fireworks plant" § 10-101

23 "1.3 G fireworks" § 10-101

24 "1.4 G fireworks" § 10-101

25 "Person" § 1-101

26 "State" § 1-101

27 "Storage building" § 10-101

28 10-202. REGULATIONS.

29 (A) ADOPTION AND ENFORCEMENT.

30 AS NECESSARY OR ADVISABLE TO PROTECT THE SAFETY OF EMPLOYEES OF A
31 FIREWORKS PLANT AND THE PUBLIC AND TO PROTECT PUBLIC PROPERTY, THE
32 STATE FIRE PREVENTION COMMISSION SHALL:

33 (1) ADOPT REGULATIONS CONSISTENT WITH THIS SUBTITLE; AND

34 (2) ENFORCE THE REGULATIONS THROUGH THE OFFICE OF THE STATE
35 FIRE MARSHAL.

36 (B) SCOPE.

1 THE SCOPE OF THE REGULATIONS ADOPTED UNDER THIS SECTION MAY
2 INCLUDE:

3 (1) THE IMPLEMENTATION OF THIS SUBTITLE; AND

4 (2) REQUIREMENTS RELATING TO:

5 (I) THE LOCATION, CONSTRUCTION, ARRANGEMENT, AND
6 OPERATION OF A FIREWORKS PLANT;

7 (II) PERSONNEL;

8 (III) PUBLIC LIABILITY AND WORKERS' COMPENSATION
9 INSURANCE; AND

10 (IV) FIREWORKS PLANT SAFETY.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 38A, § 19(b).

13 In subsection (a) of this section, the former reference to the "general"
14 public is deleted as unnecessary.

15 In the introductory language of subsection (b) of this section, the reference
16 to regulations "adopted under this section" is added for clarity.

17 Also in the introductory language of subsection (b) of this section, the
18 former phrase "is not limited to" is deleted as included in the reference to
19 "include". *See* Art. 1, § 30.

20 In subsection (b)(2) of this section, the reference to "requirements relating
21 to" is substituted for the former reference to "any and all aspects of" for
22 clarity.

23 Defined term: "Fireworks plant" § 10-101

24 10-203. INSPECTIONS.

25 (A) AUTHORITY.

26 THE STATE FIRE MARSHAL OR A DESIGNEE OF THE STATE FIRE MARSHAL
27 SHALL INSPECT PERIODICALLY EACH FIREWORKS PLANT OWNED OR OPERATED BY A
28 PERSON LICENSED UNDER THIS SUBTITLE.

29 (B) AREA OF INSPECTION.

30 AN INSPECTION UNDER THIS SECTION SHALL INCLUDE ALL ASPECTS OF
31 FIREWORKS PLANT OPERATION.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 38A, § 19(c).

1 %In subsection (a) of this section, the reference to "each fireworks plant
2 owned or operated by a person" licensed is substituted for the former
3 reference to "all fireworks plants" licensed since it is the owner or operator
4 who is licensed and not the plant.

5 Defined terms: "Fireworks plant" § 10-101

6 "Person" § 1-101

7 10-204. LOCATIONS OF BUILDINGS; FENCING.

8 (A) LOCATION.

9 (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A
10 MIXING BUILDING OR STORAGE BUILDING OF A FIREWORKS PLANT SHALL BE
11 LOCATED AT LEAST:

12 (I) 1,000 FEET FROM A SCHOOL, CHURCH, HOSPITAL, PLACE OF
13 PUBLIC ASSEMBLY, OR GASOLINE OR FUEL OIL STORAGE BUILDING OR SERVICE
14 STATION; AND

15 (II) 200 FEET FROM ANY OTHER INHABITED BUILDING, A HIGHWAY,
16 OR A RAILROAD.

17 (2) A BUILDING WITHIN A FIREWORKS PLANT THAT CONTAINS
18 HAZARDOUS MIXES OR ITEMS MAY NOT BE LOCATED NEARER TO THE FIREWORKS
19 PLANT PROPERTY LINE THAN IS AUTHORIZED UNDER REGULATIONS ADOPTED BY
20 THE STATE FIRE PREVENTION COMMISSION.

21 (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
22 PARAGRAPH, A FINISHING AND ASSEMBLING BUILDING SHALL BE LOCATED AT
23 LEAST:

24 1. 75 FEET FROM ANY OTHER FINISHING AND ASSEMBLING
25 BUILDING; AND

26 2. 200 FEET FROM ANY STORAGE BUILDING USED
27 PRIMARILY TO STORE FINISHED FIREWORKS OTHER THAN SPARKLERS.

28 (II) IF A CANDLE BUILDING OR ROCKET PRESS BUILDING OF A
29 FIREWORKS PLANT IS CONSTRUCTED OF APPROVED FIRE-RESISTANT MATERIALS, IS
30 BARRICADED, AND OTHERWISE MEETS THE REQUIREMENTS OF THE STATE FIRE
31 PREVENTION COMMISSION, THE BUILDING SHALL BE LOCATED AT LEAST 50 FEET
32 FROM OTHER FINISHING AND ASSEMBLING BUILDINGS.

33 (4) A LICENSEE MAY PACKAGE AND REPACKAGE 1.4 G FIREWORKS IN
34 FINISHED FORM IN A STORAGE BUILDING IF THERE IS A MINIMUM SEPARATION
35 DISTANCE OF 25 FEET BETWEEN THE PACKAGING AREA AND ANY STORED
36 FIREWORKS.

1 (5) EXCEPT AS PROVIDED UNDER PARAGRAPH (3)(II) OF THIS
2 SUBSECTION, A DISTANCE PRESCRIBED UNDER THIS SECTION MAY NOT BE REDUCED
3 BECAUSE OF THE PRESENCE OF A BARRICADE OR EARTH COVER.

4 (B) FENCING.

5 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
6 FIREWORKS PLANT SHALL BE COMPLETELY SURROUNDED BY A SUBSTANTIAL
7 FENCE THAT:

8 (I) IS AT LEAST 6 FEET TALL;

9 (II) CONTAINS AT LEAST THREE STRANDS OF BARBED WIRE; AND

10 (III) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,
11 CONTAINS OPENINGS EQUIPPED WITH SUITABLE GATES THAT ARE KEPT SECURELY
12 LOCKED WHEN NOT IN USE.

13 (2) EXCEPT FOR AN OFFICE BUILDING IN WHICH PROCESSING OR
14 STORAGE IS PROHIBITED, EACH BUILDING IN A FIREWORKS PLANT SHALL BE
15 LOCATED WITHIN THE FENCE REQUIRED UNDER PARAGRAPH (1) OF THIS
16 SUBSECTION.

17 (3) THE MAIN GATE OF THE PLANT MAY BE LEFT OPEN DURING THE
18 REGULAR HOURS OF PLANT OPERATION IF THE GATE IS WITHIN THE
19 UNOBSTRUCTED VIEW AND UNDER THE OBSERVATION OF AUTHORIZED
20 RESPONSIBLE EMPLOYEES OR GUARDS.

21 (4) THE LICENSEE SHALL POST CONSPICUOUS SIGNS AT LEAST EVERY
22 500 FEET ALONG THE FENCE OF THE FIREWORKS PLANT THAT STATE "WARNING --
23 NO SMOKING -- NO TRESPASSING".

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 38A, § 20(a), (c), and (d) and the second sentence
26 of § 15(j).

27 In the introductory language of subsection (a)(1) of this section, the clause
28 "[s]ubject to paragraphs (2) and (3) of this subsection" is added for clarity.

29 Also in the introductory language of subsection (a)(1) of this section, the
30 former phrase "[n]o fireworks plant shall be located so" is deleted for
31 brevity, since it is the distance of the mixing building or storage building
32 which is delimited by the subsection, and not the entire plant.

33 In subsection (a)(1)(ii) of this section, the reference to any "other" inhabited
34 building is added for clarity, since it is unlikely that a school, church,
35 hospital, or place of assembly -- unless abandoned -- would ever be
36 uninhabited long enough to justify the lesser 200-foot distance.

37 In subsection (a)(3)(i) of this section, the conjunction "and" is substituted

- 1 for the former reference to "or" to clarify that a finishing and assembling
2 building must be both 75 feet from other finishing and assembling
3 buildings "and" 200 feet from fireworks storage buildings.
- 4 In subsection (a)(3)(i)2 of this section, the reference to a building "used
5 primarily" is substituted for the former reference to "devoted principally"
6 for clarity.
- 7 In subsection (a)(3)(ii) of this section, the reference to a building
8 "constructed of approved fire-resistant materials" is substituted for the
9 former reference to a building "of an approved fire resistant construction"
10 for clarity.
- 11 Also in subsection (a)(3)(ii) of this section, the reference to "shall be located
12 at least" is substituted for the former reference to "may be no less than" for
13 clarity and consistency within this section.
- 14 In subsection (a)(5) of this section, the reference to distances "prescribed"
15 is substituted for the former reference to distances "specified or provided"
16 for brevity and clarity.
- 17 In subsection (b)(1)(i) of this section, the reference to a fence that "is at
18 least 6 feet tall" is substituted for the former reference to a fence "having a
19 minimum height of six feet" for clarity.
- 20 In subsection (b)(1)(iii) of this section, the reference to gates being "kept
21 securely locked when not in use" is substituted for the former reference to
22 gates being locked "at all times, except when in actual use" for clarity.
- 23 In subsection (b)(2) of this section, the reference to "each building in a
24 fireworks plant" is substituted for the former reference to "[a]ll buildings"
25 for clarity.
- 26 In subsection (b)(3) of this section, the reference to an "unobstructed" view
27 is substituted for the former reference to being in "plain" view for clarity.
- 28 Also in subsection (b)(3) of this section, the reference to "if the gate is" is
29 substituted for the former reference to "while" for clarity.
- 30 In subsection (b)(4) of this section, the reference to "[t]he licensee" is added
31 to clarify who has the obligation for seeing that conspicuous signs are
32 posted.
- 33 Also in subsection (b)(4) of this section, the reference to signs "stat[ing]" is
34 substituted for the former reference to signs "indicating" for clarity.
- 35 Also in subsection (b)(4) of this section, the reference to "at least every" 500
36 feet is substituted for the former reference to "at intervals not to exceed"
37 500 feet for brevity.

1 Defined terms: "Finishing and assembly building" § 10-101

2 "Fireworks" § 10-101

3 "Fireworks plant" § 10-101

4 "Mixing building" § 10-101

5 "1.4 G fireworks" § 10-101

6 "Press building" § 10-101

7 "Storage building" § 10-101

8 10-205. CONSTRUCTION OF PLANT BUILDINGS.

9 (A) IN GENERAL.

10 EACH BUILDING IN A FIREWORKS PLANT SHALL BE CONSTRUCTED AS
11 PROVIDED IN THIS SECTION.

12 (B) EXTERIOR WALLS AND ROOFS.

13 (1) THIS SUBSECTION APPLIES TO A BUILDING THAT IS CONSTRUCTED
14 OR IMPROVED AFTER JULY 1, 1970, OR TO WHICH AN ADDITION IS MADE AFTER JULY
15 1, 1970.

16 (2) THE FOLLOWING BUILDINGS IN A FIREWORKS PLANT SHALL HAVE
17 EXTERIOR WALLS AND ROOFS THAT ARE CONSTRUCTED OF NONCOMBUSTIBLE
18 MATERIAL AND SHALL BE CONSTRUCTED TO BE FRANGIBLE:

19 (I) A FINISHING AND ASSEMBLING BUILDING;

20 (II) A PRESS BUILDING; AND

21 (III) A MIXING BUILDING.

22 (C) LIMITATION ON STORIES.

23 A BUILDING IN A FIREWORKS PLANT MAY NOT CONTAIN A BASEMENT OR
24 EXCEED ONE STORY.

25 (D) FLOORS AND INTERIOR WALLS.

26 (1) THE INTERIOR WALL SURFACES AND CEILINGS OF A BUILDING IN A
27 FIREWORKS PLANT SHALL:

28 (I) BE SMOOTH, FREE FROM CRACKS AND CREVICES, AND FIRE
29 RESISTANT; AND

30 (II) CONTAIN A MINIMUM NUMBER OF HORIZONTAL LEDGES ON
31 WHICH DUST MAY ACCUMULATE.

32 (2) (I) A FLOOR OR WORK SURFACE IN A BUILDING IN A FIREWORKS
33 PLANT MAY NOT HAVE CRACKS OR CREVICES IN WHICH EXPLOSIVES MAY LODGE.

1 (II) A WALL JOINT OR OPENING FOR WIRING OR PLUMBING IN A
2 BUILDING IN A FIREWORKS PLANT SHALL BE SEALED TO PREVENT ENTRY OF DUST.

3 (3) A MIXING BUILDING OR PRESS BUILDING IN A FIREWORKS PLANT
4 SHALL CONTAIN CONDUCTIVE FLOORING THAT IS PROPERLY GROUNDED.

5 (E) HEATING.

6 A BUILDING IN A FIREWORKS PLANT SHALL BE HEATED BY:

7 (1) STEAM;

8 (2) INDIRECTLY RADIATING HOT AIR;

9 (3) HOT WATER; OR

10 (4) ANY OTHER MEANS APPROVED BY THE STATE FIRE PREVENTION
11 COMMISSION.

12 (F) ELECTRICAL WIRING AND LIGHTING.

13 (1) ALL ELECTRIC WIRING IN A FIREWORKS PLANT SHALL BE
14 PERMANENT AND INSTALLED IN APPROVED CONDUITS.

15 (2) ALL ELECTRICAL SERVICE SHALL COMPLY WITH APPLICABLE
16 ELECTRICAL CODES.

17 (3) TEMPORARY OR LOOSE ELECTRIC WIRING OR EXTENSION LIGHTS
18 MAY NOT BE USED EXCEPT:

19 (I) DURING REPAIR OPERATIONS WHILE USING APPROVED
20 TEMPORARY EXTENSIONS; AND

21 (II) AFTER THE AREA HAS BEEN CLEARED OF ALL EXPLOSIVE
22 COMPOSITION AND WASHED OF DUST.

23 (4) EACH FIREWORKS PLANT SHALL HAVE A MASTER SWITCH THAT:

24 (I) IS LOCATED AT THE POINT WHERE ELECTRIC CURRENT
25 ENTERS THE FIREWORKS PLANT; AND

26 (II) ON BEING OPENED, IMMEDIATELY CUTS OFF ALL ELECTRIC
27 CURRENT TO THE FIREWORKS PLANT.

28 (5) OTHER THAN IN A WAREHOUSE, AN OPEN KNIFE SWITCH MAY NOT
29 BE USED INSIDE A BUILDING OF A FIREWORKS PLANT.

30 (6) ARTIFICIAL LIGHTING IN A FIREWORKS PLANT SHALL BE PROVIDED
31 BY ELECTRIC, VAPOR-PROOF, KEYLESS LAMPS.

32 (G) EXITS.

1 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH
2 BUILDING SHALL CONTAIN:

3 (I) AT LEAST TWO EXITS FOR EACH WORK AREA; AND

4 (II) AT LEAST TWO EXITS FROM THE BUILDING.

5 (2) EACH SMALL BUILDING WITH A DESIGNATED CAPACITY OF ONE
6 INDIVIDUAL MAY HAVE ONLY ONE EXIT.

7 (3) EACH EXIT SHALL BE AT LEAST 30 INCHES WIDE.

8 (4) EXITS SHALL BE LOCATED:

9 (I) SO THAT THE PATH OF TRAVEL FROM THE WORK AREA IS
10 UNOBSTRUCTED; AND

11 (II) AT OPPOSITE ENDS OF THE WORK AREA.

12 (5) AN EXIT DOOR SHALL:

13 (I) OPEN OUTWARD;

14 (II) REMAIN UNLOCKED DURING THE HOURS THAT THE WORK
15 AREA OR BUILDING IS OCCUPIED; AND

16 (III) REMAIN UNOBSTRUCTED.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 38A, § 21(1), (4), (6), (8), and, as they related to
19 setting building and heating standards, (2), (5), and the introductory
20 language of § 21.

21 In subsection (b)(2) of this section, the former reference to "breakway"
22 construction is deleted as included in the reference to "frangible"
23 construction for brevity.

24 In subsection (c) of this section, the reference to a building not "exceed[ing]
25 one story" is substituted for the former reference to a building being not
26 "more than one story high" for brevity.

27 In subsection (d)(1)(i) of this section, the reference to wall surfaces and
28 ceilings being fire "resistant" is substituted for the former reference to wall
29 surfaces and ceilings being fire "resistive" for clarity.

30 In the introductory language of subsection (e) of this section, the reference
31 to a "building in a fireworks plant" is added for clarity.

32 In subsection (f)(1) of this section, the reference to all electric wiring "in a
33 fireworks plant" is added for clarity.

1 % Also in subsection (f)(1) of this section, the reference to electric wiring
2 being "permanent" is substituted for the former reference to electric wiring
3 having a "permanent character" for brevity.

4 In subsection (f)(2) of this section, the requirement that electrical service
5 "comply" with applicable electrical codes is substituted for the former
6 requirement that electrical service "be in accordance" with applicable
7 electrical codes for clarity.

8 In subsection (f)(3)(i) of this section, the former reference to a "type" of
9 extension is deleted as included in the reference to an "approved"
10 extension.

11 In subsection (f)(3)(ii) of this section, the former reference to washing
12 "down" is deleted as implicit in the reference to being "washed" for brevity.

13 In subsection (f)(6) of this section, the reference to "electric" vapor-proof,
14 keyless lamps is substituted for the former reference to lighting "by
15 electricity, with" vapor-proof, keyless lamps for brevity.

16 In subsection (g)(1)(i) of this section, the reference to a "work area" is
17 substituted for the former reference to an "operating room" for clarity.

18 In subsection (g)(4)(ii) of this section, the reference to a "work area" is
19 substituted for the former reference to an "area involved" for clarity.

20 In subsection (g)(5)(ii) of this section, the reference to "the hours that the
21 work area or building is occupied" is substituted for the former reference to
22 "hours of occupancy" for clarity.

23 Defined terms: "Explosive composition" § 10-101

24 "Finishing and assembling building" § 10-101

25 "Fireworks plant" § 10-101

26 "Mixing building" § 10-101

27 "Press building" § 10-101

28 10-206. PLANT EQUIPMENT.

29 (A) IN GENERAL.

30 EACH BUILDING IN A FIREWORKS PLANT SHALL BE EQUIPPED AS PROVIDED IN
31 THIS SECTION.

32 (B) HEATING EQUIPMENT.

33 (1) A STOVE, AN EXPOSED FLAME, OR AN ELECTRIC HEATER MAY NOT
34 BE USED IN A FIREWORKS PLANT, EXCEPT IN A BOILER ROOM, MACHINE SHOP,
35 OFFICE BUILDING, PUMP HOUSE, OR LAVATORY IN WHICH FIREWORKS, FIREWORKS
36 COMPONENTS, OR VOLATILE CHEMICALS ARE PROHIBITED.

1 (2) IF A UNIT HEATER IS LOCATED INSIDE A BUILDING THAT COULD, AT
2 ANY TIME, CONTAIN EXPLOSIVE COMPOSITION:

3 (I) THE HEATER SHALL BE EQUIPPED WITH AN EXPLOSION-PROOF
4 MOTOR; AND

5 (II) THE SWITCHES CONTROLLING THE MOTOR OF THE UNIT
6 HEATER SHALL BE LOCATED OUTSIDE THE BUILDING IN WHICH THE MOTOR IS
7 LOCATED.

8 (C) DEVICES CAPABLE OF PRODUCING OPEN SPARK.

9 AN ELECTRIC MOTOR, FAN, OPEN SWITCH, OR OTHER DEVICE CAPABLE OF
10 PRODUCING AN OPEN SPARK SHALL BE LOCATED:

11 (1) OUTSIDE ANY BUILDING IN A FIREWORKS PLANT THAT AT ANY TIME
12 CONTAINS EXPLOSIVE COMPOSITION; AND

13 (2) IN A MANNER SO THAT AN OPEN SPARK CANNOT BE INTRODUCED
14 INTO A BUILDING IN A FIREWORKS PLANT THAT, AT ANY TIME, CONTAINS EXPLOSIVE
15 COMPOSITION.

16 (D) PRESSES OR OTHER MECHANICAL DEVICES.

17 A PRESS OR OTHER MECHANICAL DEVICE LOCATED IN A BUILDING IN A
18 FIREWORKS PLANT THAT, AT ANY TIME, CONTAINS EXPLOSIVE COMPOSITION SHALL
19 BE PROPERLY GROUNDED TO PREVENT THE ACCUMULATION OF STATIC
20 ELECTRICITY.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 38A, § 21(7) and, as they related to setting
23 standards for plant equipment, (5) and the introductory language to § 21.

24 In subsection (b)(1) of this section, the former reference to "the presence
25 of" certain materials is deleted as included in the reference to areas "in
26 which" those materials exist for brevity.

27 In subsection (b)(2)(ii) of this section, the reference to the building "in
28 which the motor is located" is added for clarity.

29 In subsection (d) of this section, the reference to a device "located in a
30 building in a fireworks plant that, at any time, contains explosive
31 composition" is added for clarity.

32 Defined terms: "Explosive composition" § 10-101

33 "Fireworks" § 10-101

34 "Fireworks plant" § 10-101

35 10-207. SAFETY STANDARDS FOR BUILDINGS.

36 (A) MATERIALS.

1 (1) IN THIS SUBSECTION, "EXPLOSIVE COMPOSITION" OR "PYROTECHNIC
2 COMPOSITION" INCLUDES RAW MATERIALS, MATERIALS BEING PROCESSED, AND
3 FINISHED PRODUCTS.

4 (2) BY REGULATION, THE STATE FIRE PREVENTION COMMISSION SHALL
5 DETERMINE THE MAXIMUM AMOUNT OF EXPLOSIVE COMPOSITION OR
6 PYROTECHNIC COMPOSITION THAT MAY BE SAFELY KEPT IN ANY BUILDING IN A
7 FIREWORKS PLANT AT ANY TIME.

8 (3) A LICENSEE SHALL:

9 (I) POST CONSPICUOUSLY ON EACH BUILDING IN THE FIREWORKS
10 PLANT, THE LIMITS ON THE AMOUNT OF EXPLOSIVE COMPOSITION OR PYROTECHNIC
11 COMPOSITION AUTHORIZED UNDER THIS SUBSECTION; AND

12 (II) STRICTLY COMPLY WITH THE LIMITS.

13 (B) SANITATION.

14 (1) A LICENSEE SHALL KEEP EACH BUILDING IN A FIREWORKS PLANT
15 CLEAN, ORDERLY, AND FREE FROM ACCUMULATED DUST OR RUBBISH.

16 (2) IF POWDER OR OTHER EXPLOSIVE MATERIALS ARE SPILLED ON THE
17 FLOOR OF A BUILDING IN A FIREWORKS PLANT, THE LICENSEE SHALL ENSURE THAT
18 THE FLOOR IS CLEANED IMMEDIATELY AND THAT THE POWDER OR MATERIALS ARE
19 REMOVED IMMEDIATELY FROM THE BUILDING.

20 (C) WASTE MATERIALS.

21 (1) A LICENSEE SHALL ENSURE THAT RAGS, COMBUSTIBLE AND
22 EXPLOSIVE SCRAP, AND PAPER ARE:

23 (I) KEPT SEPARATE FROM EACH OTHER; AND

24 (II) PLACED IN APPROVED MARKED CONTAINERS.

25 (2) A LICENSEE SHALL ENSURE THAT WASTE AND REJECTED
26 HAZARDOUS MATERIALS ARE:

27 (I) REMOVED DAILY FROM EACH BUILDING;

28 (II) REMOVED AT REGULAR INTERVALS FROM THE FIREWORKS
29 PLANT; AND

30 (III) DESTROYED BY SUBMERSION IN WATER OR BY BURNING.

31 (3) A LICENSEE SHALL ENSURE THAT NONHAZARDOUS WASTE IS:

32 (I) REMOVED AT REGULAR INTERVALS FROM THE FIREWORKS
33 PLANT; AND

1 (II) DISPOSED OF IN A LANDFILL SYSTEM OR BY OTHER SUITABLE
2 MEANS.

3 (D) FIRE EXTINGUISHERS.

4 A LICENSEE SHALL ENSURE THAT ADEQUATE AND APPROPRIATE FIRE
5 EXTINGUISHERS THAT MEET THE STATE FIRE PREVENTION CODE ARE:

6 (1) KEPT IN EACH BUILDING IN A FIREWORKS PLANT; AND

7 (2) READILY ACCESSIBLE AT ALL TIMES.

8 (E) VISITORS.

9 (1) UNLESS AN INDIVIDUAL HAS SIGNED INTO A LOG AND HAS STATED
10 IN WRITING THE PURPOSE OF THE INDIVIDUAL'S VISIT TO THE FIREWORKS PLANT, A
11 LICENSEE MAY NOT ALLOW ENTRY INTO A FIREWORKS PLANT BY AN INDIVIDUAL
12 OTHER THAN:

13 (I) AN AUTHORIZED EMPLOYEE; OR

14 (II) A REPRESENTATIVE OF A UNIT OF THE FEDERAL
15 GOVERNMENT, A STATE GOVERNMENT, OR A POLITICAL SUBDIVISION, HAVING
16 JURISDICTION OVER THE FIREWORKS PLANT.

17 (2) A LICENSEE SHALL:

18 (I) MAINTAIN THE LOG OF VISITORS TO THE FIREWORKS PLANT
19 FOR AT LEAST 2 YEARS; AND

20 (II) MAKE THE LOG AVAILABLE FOR INSPECTION BY THE STATE
21 FIRE MARSHAL OR A REPRESENTATIVE OF THE STATE FIRE MARSHAL.

22 (3) ALL VISITORS SHALL WEAR CONDUCTIVE FOOTWEAR.

23 (F) SECURITY GUARDS.

24 (1) THERE SHALL BE AT LEAST ONE COMPETENT SECURITY GUARD
25 PRESENT ON DUTY WHENEVER ANY EXPLOSIVE COMPOSITION IS LOCATED WITHIN A
26 FIREWORKS PLANT.

27 (2) THE SECURITY GUARD:

28 (I) MAY NOT SLEEP ON DUTY; AND

29 (II) SHALL PATROL THE ENTIRE FIREWORKS PLANT REGULARLY
30 WHEN THE FIREWORKS PLANT IS NOT IN OPERATION.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 38A, §§ 20(b), 22(a) through (d), 23(a), and, as it
33 related to visitors wearing conductive footwear, § 21(2).

- 1 %In subsection (a)(2) of this section, the reference to the "maximum" amount
2 is substituted for the former reference to the "total" amount for clarity.
- 3 Also in subsection (a)(2) of this section, the reference to explosive
4 composition or pyrotechnic composition "kept" is substituted for the former
5 reference to explosive composition or pyrotechnic composition "permitted"
6 for clarity.
- 7 Also in subsection (a)(2) of this section, the reference to "[b]y regulation" is
8 substituted for the former reference to being "promulgated" for clarity.
- 9 In the introductory language of subsection (a)(3) of this section, the
10 reference to a "licensee" is added to clarify who has the responsibility for
11 posting the limits and complying with those limits.
- 12 In subsection (a)(3)(ii) of this section, the requirement to "comply with"
13 limits is substituted for the former requirement that the limits be "adhered
14 to" for clarity.
- 15 In subsections (b)(1) and (2), (c), (d), and (e)(1) and (2) of this section, the
16 references to a "licensee" are added to clarify who is responsible for
17 compliance.
- 18 In subsection (b)(2) of this section, the phrase "the floor is cleaned
19 immediately and that the powder or materials are removed immediately"
20 is substituted for the former reference to "explosive materials ... [being]
21 immediately cleaned up and removed" for clarity.
- 22 In subsection (c)(3)(ii) of this section, the reference to a "landfill system" is
23 substituted for the former obsolete reference to a "public dump" for clarity
24 and in conformity with EN § 9-204.2.
- 25 In the introductory language of subsection (d) of this section, the former
26 reference to meeting Fire Prevention Code "requirements" is deleted as
27 included in the reference to meeting the Fire Prevention "Code" for brevity.
- 28 In subsection (d)(1) of this section, the reference to fire extinguishers being
29 "kept" is substituted for the former reference to fire extinguishers being
30 "located" for clarity.
- 31 Also in subsection (d)(1) of this section, the reference to "each" building is
32 added for clarity.
- 33 In the introductory language of subsection (e)(1) of this section, the
34 reference to an individual who has "signed into a log and has stated in
35 writing" is substituted for the former reference to an individual who has
36 "signed in, stating" for clarity.
- 37 In subsection (e)(2)(i) of this section, the reference to "the log of visitors to
38 the fireworks plant" is substituted for the former reference to "[a] record of

1 these visits" for clarity.

2 In subsection (e)(2)(ii) of this section, the reference to "[a] licensee ...
3 mak[ing] the log available for inspection" is substituted for the former
4 reference to a record being "subject to inspection" for clarity and to clarify
5 who is responsible for compliance.

6 In subsection (f)(1) and (2) of this section, the references to "security guard"
7 are substituted for the former obsolete references to "watchman" for
8 clarity.

9 Defined terms: "Explosive composition" § 10-101

10 "Fireworks plant" § 10-101

11 "Pyrotechnic composition" § 10-101

12 "State" § 1-101

13 10-208. TESTING OF FIREWORKS.

14 (A) IN GENERAL.

15 A LICENSEE MAY TEST FIREWORKS OR THEIR COMPONENTS ONLY IN AN AREA
16 THAT IS:

17 (1) SET ASIDE FOR THAT PURPOSE; AND

18 (2) LOCATED AT A SAFE DISTANCE FROM ANY FIREWORKS PLANT
19 BUILDING OR OTHER STRUCTURE, CONSIDERING THE NATURE OF THE MATERIALS
20 BEING TESTED.

21 (B) EXPERIMENTAL TESTING.

22 A LICENSEE MAY EXPERIMENT WITH FIREWORKS, PYROTECHNICS, OR THEIR
23 COMPONENTS ONLY AS AUTHORIZED BY THE STATE FIRE MARSHAL.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 38A, § 22(e) and (f).

26 In subsection (a) of this section, the reference to a "licensee" is added to
27 clarify who is responsible for compliance.

28 Also in subsection (a) of this section, the reference to testing "only" in the
29 specified areas is added for clarity.

30 In subsection (b) of this section, the reference to a "licensee" is substituted
31 for the former reference to a "licensed fireworks manufacturer" for
32 consistency within this subtitle.

33 Defined terms: "Fireworks" § 10-101

34 "Fireworks plant" § 10-101

1 10-209. SAFETY REQUIREMENTS FOR PERSONNEL.

2 (A) PLANT SAFETY OFFICER; EMPLOYEE SAFETY INSTRUCTION.

3 (1) THE LICENSEE SHALL DESIGNATE AN EMPLOYEE IN EACH
4 FIREWORKS PLANT AS SAFETY OFFICER.

5 (2) WHEN AN EMPLOYEE OF A FIREWORKS PLANT BEGINS
6 EMPLOYMENT IN THE FIREWORKS PLANT AND AT LEAST ANNUALLY THEREAFTER,
7 THE SAFETY OFFICER SHALL INSTRUCT THE EMPLOYEE FORMALLY ABOUT:

8 (I) THE PROVISIONS OF THIS SUBTITLE;

9 (II) REGULATIONS ADOPTED BY THE STATE FIRE PREVENTION
10 COMMISSION;

11 (III) PROPER METHODS AND PROCEDURES IN FIREWORKS PLANTS;

12 (IV) SAFETY REQUIREMENTS AND PROCEDURES FOR HANDLING
13 EXPLOSIVES AND FIREWORKS; AND

14 (V) OTHER SUBJECTS THAT THE STATE FIRE PREVENTION
15 COMMISSION REQUIRES.

16 (3) AFTER RECEIVING EACH COURSE OF INSTRUCTION, THE EMPLOYEE
17 SHALL SIGN A STATEMENT THAT THE EMPLOYEE:

18 (I) HAS RECEIVED INSTRUCTION IN THE SUBJECTS REQUIRED
19 UNDER PARAGRAPH (2) OF THIS SUBSECTION; AND

20 (II) UNDERSTANDS THE REQUIREMENTS FOR SAFE PRACTICES.

21 (4) THE STATEMENT REQUIRED UNDER PARAGRAPH (3) OF THIS
22 SUBSECTION SHALL BE:

23 (I) FILED IN THE PERSONNEL RECORDS OF THE FIREWORKS
24 PLANT; AND

25 (II) MADE AVAILABLE FOR INSPECTION BY THE STATE FIRE
26 MARSHAL.

27 (B) MAXIMUM NUMBER OF EMPLOYEES AND OTHERS.

28 A LICENSEE SHALL POST CONSPICUOUSLY IN EACH BUILDING SIGNS STATING
29 THE MAXIMUM NUMBER OF WORKERS AND VISITORS WHO MAY BE PRESENT IN THE
30 BUILDING AT ANY ONE TIME.

31 (C) CLOTHING AND EQUIPMENT.

32 (1) A LICENSEE SHALL:

1 (I) PROVIDE COTTON WORKING UNIFORMS AND CONDUCTIVE
2 SHOES TO EACH INDIVIDUAL WORKING IN A MIXING BUILDING AND PRESS BUILDING
3 IN A FIREWORKS PLANT;

4 (II) PROVIDE FACILITIES FOR:

5 1. INDIVIDUALS TO CHANGE INTO AND OUT OF UNIFORMS;
6 AND

7 2. THE SAFEKEEPING OF CLOTHING;

8 (III) WASH UNIFORMS FREQUENTLY TO PREVENT THE
9 ACCUMULATION OF EXPLOSIVE COMPOSITION ON THE UNIFORMS; AND

10 (IV) PROVIDE FOR EMPLOYEES WASHING AND SHOWERING
11 FACILITIES DESIGNATED BY THE SECRETARY OF HEALTH AND MENTAL HYGIENE.

12 (2) (I) EACH INDIVIDUAL WORKING IN A MIXING BUILDING AND
13 PRESS BUILDING IN A FIREWORKS PLANT SHALL WEAR THE COTTON UNIFORMS AND
14 CONDUCTIVE SHOES THAT THE LICENSEE PROVIDES.

15 (II) EACH INDIVIDUAL WORKING IN A PRODUCTION BUILDING IN A
16 FIREWORKS PLANT SHALL WEAR THE TYPE OF EYE PROTECTION DESIGNATED BY
17 THE SECRETARY OF HEALTH AND MENTAL HYGIENE.

18 (III) EACH INDIVIDUAL WORKING IN A MIXING AREA IN A
19 FIREWORKS PLANT SHALL WEAR THE TYPE OF RESPIRATOR DESIGNATED BY THE
20 SECRETARY OF HEALTH AND MENTAL HYGIENE.

21 (3) AN INDIVIDUAL MAY NOT WEAR THE UNIFORM OUTSIDE THE
22 FIREWORKS PLANT.

23 (D) USE OF TOBACCO PRODUCTS.

24 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
25 PERSON MAY NOT SMOKE OR CARRY A LIGHTED PIPE, CIGARETTE, CIGAR, MATCH,
26 LIGHTER, OR OPEN FLAME INSIDE THE FENCE OF A FIREWORKS PLANT.

27 (2) A LICENSEE MAY ALLOW SMOKING IN:

28 (I) AN OFFICE BUILDING; OR

29 (II) ANOTHER BUILDING IF:

30 1. THE BUILDING IS USED EXCLUSIVELY AS A LUNCHROOM
31 OR FOR REST ROOMS; AND

32 2. THE PRESENCE OF FIREWORKS OR ANY EXPLOSIVE
33 COMPOSITION IN THE BUILDING IS PROHIBITED.

1 (3) THE LICENSEE SHALL MARK LOCATIONS IN WHICH SMOKING IS
2 AUTHORIZED.

3 (4) SMOKING LOCATIONS SHALL CONTAIN:

4 (I) SUITABLE RECEPTACLES FOR CIGARETTE AND CIGAR BUTTS
5 AND PIPE HEELS; AND

6 (II) AT LEAST ONE SERVICEABLE FIRE EXTINGUISHER OF A TYPE
7 THAT IS ACCEPTABLE TO THE STATE FIRE MARSHAL.

8 (5) A PERSON WHOSE CLOTHING IS SO CONTAMINATED WITH
9 EXPLOSIVES OR OTHER DANGEROUS MATERIALS AS TO POSSIBLY ENDANGER THE
10 SAFETY OF OTHER FIREWORKS PLANT PERSONNEL MAY NOT BE ALLOWED IN A
11 SMOKING LOCATION.

12 (E) INFLAMMATORY MATERIALS AND TOOLS.

13 (1) A PERSON MAY NOT BRING INTO A FINISHING AND ASSEMBLING
14 BUILDING, PRESS BUILDING, MIXING BUILDING, OR STORAGE BUILDING:

15 (I) A MATCH, CIGARETTE LIGHTER, OR OTHER FLAME-PRODUCING
16 DEVICE; OR

17 (II) A KEY, KNIFE, COIN, OR OTHER PERSONAL ARTICLE MADE OF
18 METAL.

19 (2) A PERSON SHALL ONLY USE PROPERLY MAINTAINED AND
20 NONFERROUS SAFETY HAND TOOLS IN ANY AREA OF A FIREWORKS PLANT IN WHICH
21 THERE IS A DANGER THAT MATERIALS MAY BE IGNITED BY SPARKS.

22 (F) USE OF LIQUOR AND NARCOTICS.

23 A PERSON MAY NOT:

24 (1) ENTER OR ATTEMPT TO ENTER A FIREWORKS PLANT WHILE:

25 (I) POSSESSING LIQUOR OR NARCOTICS; OR

26 (II) UNDER THE INFLUENCE OF LIQUOR OR NARCOTICS; OR

27 (2) CONSUME INTOXICANTS OR NARCOTICS WHILE IN A FIREWORKS
28 PLANT.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 38A, §§ 23(b) through (g), 21(3), and, as it related
31 to employees wearing conductive footwear, § 21(2).

32 In subsections (a)(1), (b), and (c)(1) and (2)(i) and the introductory
33 language of subsection (d)(2) and (3) of this section, the references to a
34 "licensee" are added to clarify who is responsible for compliance.

- 1 %In the introductory language of subsection (a)(3) of this section, the
2 reference to "each course" of instruction is substituted for the former
3 reference to each "time" of instruction for clarity.
- 4 In subsection (a)(4)(ii) of this section, the reference to the statement being
5 "made available for" inspection is substituted for the former reference to
6 the statement being "subject to" inspection for clarity.
- 7 In subsection (b) of this section, the reference to signs "stating" is
8 substituted for the former reference to signs "indicating" for clarity.
- 9 Also in subsection (b) of this section, the reference to "visitors" is
10 substituted for the former obsolete reference to "transients" for clarity.
- 11 In subsections (c)(1) and (2) and (e)(1) of this section, the defined term
12 "press building" is substituted for the former references to "pressing
13 building" for clarity and consistency.
- 14 In subsection (c)(1)(i) and (2) of this section, the references to buildings or
15 areas "in a fireworks plant" are added for clarity.
- 16 In subsection (c)(1), (2), and (3) of this section, the references to an
17 "individual" are substituted for the former references to "persons working
18 at or supervising the operations" and "operating personnel" for brevity and
19 clarity.
- 20 In subsection (c)(1)(ii) of this section, the former reference to facilities for
21 "chang[ing] into and out of uniforms" is substituted for the former
22 reference to facilities for "changing into these uniforms" for clarity.
- 23 In subsection (c)(1)(iii) of this section, the defined term "explosive
24 composition" is substituted for the former reference to "explosive
25 compounds" for clarity and consistency.
- 26 Also in subsection (c)(1)(iii) of this section, the reference to accumulations
27 "on the uniforms" is added for clarity.
- 28 In subsection (d)(4)(ii) of this section, the reference to a fire extinguisher of
29 a type that is acceptable "to the State Fire Marshal" is added for clarity.
- 30 In subsection (d)(5) of this section, the statement that "[a] person ... may
31 not be allowed in" is substituted for the former statement that
32 "[p]ersons ... shall not be permitted in" for clarity.
- 33 In subsection (e)(1) of this section, the reference to "[a] person may not
34 bring" is substituted for the former phrase "shall not be brought" for
35 clarity.
- 36 In subsection (e)(2) of this section, the reference to "[a] person shall only
37 use" nonferrous safety tools is substituted for the former reference that

1 nonferrous safety tools "shall be used" for clarity.

2 In subsection (f) of this section, the former reference to an "employee" is
3 deleted in light of the comprehensive reference to a "person" for brevity.

4 In subsection (f)(2) of this section, the reference to "consum[ing]" is
5 substituted for the former reference to "partak[ing]" for clarity.

6 Defined terms: "Explosive composition" § 10-101

7 "Finishing and assembling building" § 10-101

8 "Fireworks" § 10-101

9 "Fireworks plant" § 10-101

10 "Mixing building" § 10-101

11 "Person" § 1-101

12 "Press building" § 10-101

13 "Storage building" § 10-101

14 10-210. PROHIBITED ACTS.

15 (A) UNLICENSED MANUFACTURING OR PROCESSING.

16 (1) A PERSON MAY NOT MANUFACTURE OR PROCESS FIREWORKS IN THE
17 STATE EXCEPT IN A FIREWORKS PLANT OF A LICENSEE.

18 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
19 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
20 EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

21 (B) UNAUTHORIZED MANUFACTURE OR STORAGE OF FIREWORKS.

22 (1) UNLESS OTHERWISE AUTHORIZED BY LAW, A PERSON UNDER THIS
23 SUBTITLE MAY NOT MANUFACTURE:

24 (I) 1.3 G FIREWORKS OTHER THAN ROCKETS AND ROMAN
25 CANDLES;

26 (II) FIREWORKS COMMONLY KNOWN AS "FLASH AND SOUND";

27 (III) PRODUCTS UTILIZING POTASSIUM CHLORATE; OR

28 (IV) EXPLOSIVES.

29 (2) EXCEPT AS OTHERWISE AUTHORIZED UNDER THIS SUBTITLE OR
30 TITLE 11, SUBTITLE 1 OF THIS ARTICLE, A PERSON MAY NOT STORE 1.3 G FIREWORKS
31 OTHER THAN ROCKETS OR ROMAN CANDLES.

32 (3) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
33 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
34 EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

35 (C) UNLICENSED OPERATION OF A FIREWORKS PLANT.

1 (1) A PERSON WHO HAS BEEN DENIED A LICENSE TO OPERATE A
 2 FIREWORKS PLANT IN THE STATE OR WHOSE LICENSE TO OPERATE A FIREWORKS
 3 PLANT IN THE STATE HAS BEEN SUSPENDED OR REVOKED MAY NOT OPERATE THAT
 4 FIREWORKS PLANT IN THE STATE.

5 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
 6 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
 7 EXCEEDING 2 YEARS OR A FINE NOT EXCEEDING \$2,000 OR BOTH.

8 REVISOR'S NOTE: This section is new language derived without substantive
 9 change from former Art. 38A, § 19(d), (h), and the second, third, and fifth
 10 sentences of (e).

11 In subsection (a)(1) of this section, the reference to "a fireworks plant of a
 12 licensee" is substituted for the former reference to "a licensed fireworks
 13 plant" for clarity, because the owner or operator of the plant, and not the
 14 plant itself, is licensed. Similarly, in subsection (c)(1) of this section, the
 15 reference to "[a] person ... whose license to operate a fireworks plant" is
 16 substituted for the former reference to "[a]ny person operating a fireworks
 17 plant ... for which a license".

18 In subsection (b)(1)(i) and (2) of this section, the reference to the defined
 19 term "1.3 G fireworks" is substituted for the former reference to "1.3 G
 20 display fireworks" for clarity and consistency.

21 Defined terms: "Fireworks" § 10-101

22 "Fireworks plant" § 10-101

23 "1.3 G fireworks" § 10-101

24 "Person" § 1-101

25 TITLE 11. EXPLOSIVES.

26 SUBTITLE 1. LICENSES TO ENGAGE IN BUSINESS AS MANUFACTURER OR DEALER
 27 OR TO POSSESS EXPLOSIVES.

28 11-101. DEFINITIONS.

29 (A) IN GENERAL.

30 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

31 REVISOR'S NOTE: This subsection is new language derived without
 32 substantive change from the introductory language of former Art. 38A, §
 33 26.

34 It is revised in the standard introductory language used for a definition
 35 section.

36 (B) DEALER.

1 (1) "DEALER" MEANS A PERSON WHO IS ENGAGED IN THE BUSINESS OF
2 BUYING OR SELLING EXPLOSIVES.

3 (2) "DEALER" DOES NOT INCLUDE A MANUFACTURER.

4 REVISOR'S NOTE: This subsection is new language derived without
5 substantive change from former Art. 38A, § 26(4).

6 Defined terms: "Explosives" § 11-101

7 "Manufacturer" § 11-101

8 "Person" § 1-101

9 (C) EXPLOSIVES.

10 (1) "EXPLOSIVES" MEANS GUNPOWDER, POWDERS FOR BLASTING, HIGH
11 EXPLOSIVES, BLASTING MATERIALS, FUSES OTHER THAN ELECTRIC CIRCUIT
12 BREAKERS, DETONATORS AND OTHER DETONATING AGENTS, SMOKELESS POWDER,
13 AND ANY CHEMICAL COMPOUND OR MECHANICAL MIXTURE THAT CONTAINS
14 OXIDIZING AND COMBUSTIBLE UNITS OR OTHER INGREDIENTS IN SUCH
15 PROPORTIONS, QUANTITIES, OR PACKING THAT IGNITION BY FIRE, FRICTION,
16 CONCUSSION, PERCUSSION, OR DETONATION OF ANY PART OF THE COMPOUND OR
17 MIXTURE MAY AND IS INTENDED TO CAUSE AN EXPLOSION.

18 (2) "EXPLOSIVES" INCLUDES BOMBS AND DESTRUCTIVE DEVICES
19 DESIGNED TO OPERATE BY CHEMICAL, MECHANICAL, OR EXPLOSIVE ACTION.

20 (3) "EXPLOSIVES" DOES NOT INCLUDE FIXED AMMUNITION FOR SMALL
21 ARMS, SMALL ARMS AMMUNITION PRIMERS, SMALL ARMS PERCUSSION CAPS,
22 SAFETY AND PYROTECHNIC FUSES, QUILLS, QUICK AND SLOW MATCHES, FRICTION
23 PRIMERS, FIREWORKS, OR COMMON MATCHES WHEN USED IN THEIR ORIGINAL
24 CONFIGURATION.

25 REVISOR'S NOTE: This subsection is new language derived without
26 substantive change from former Art. 38A, § 26(1).

27 In paragraph (1) of this subsection, a comma is added after "high
28 explosives" to clarify that "high explosives" does not modify "blasting
29 materials".

30 (D) EXPLOSIVES FOR USE IN FIREARMS.

31 "EXPLOSIVES FOR USE IN FIREARMS" MEANS:

32 (1) SMOKELESS POWDER FOR LOADING OR RELOADING SMALL ARMS
33 AMMUNITION; OR

34 (2) BLACK POWDER FOR LOADING OR RELOADING SMALL ARMS
35 AMMUNITION, ANTIQUE ARMS, OR REPLICAS OF ANTIQUE ARMS.

36 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 26(6).

1 %The only changes are in style.

2 (E) LOCAL LICENSING AUTHORITY.

3 "LOCAL LICENSING AUTHORITY" MEANS THE SHERIFF OR CHIEF OF POLICE OF
4 THE COUNTY OR COMMUNITY WHERE THE APPLICANT FOR A LICENSE RESIDES OR
5 HAS A REGULAR PLACE OF BUSINESS.

6 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 26(5).

7 The reference to "a regular place of business" is added to conform with the
8 requirement in former Art. 38A, § 28(c) that an application for a license to
9 possess explosives be made to the local licensing authority where the
10 applicant resides or has a regular place of business.

11 Defined term: "County" § 1-101

12 (F) MANUFACTURER.

13 "MANUFACTURER" MEANS A PERSON WHO MANUFACTURES OR OTHERWISE
14 PRODUCES EXPLOSIVES.

15 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 26(3).

16 The only changes are in style.

17 Defined terms: "Explosives" § 11-101

18 "Person" § 1-101

19 REVISOR'S NOTE TO SECTION: Former Art. 38A, § 26(2), which defined
20 "persons" to include a natural person, partnership, association, or
21 corporation, is deleted in light of the definition of "person" in § 1-101 of
22 this article to the same effect.

23 11-102. SCOPE OF SUBTITLE.

24 (A) TRANSPORTATION OF EXPLOSIVES.

25 THIS SUBTITLE DOES NOT APPLY TO EXPLOSIVES WHILE BEING TRANSPORTED
26 ON VESSELS, VEHICLES, OR RAILROAD CARS, OR WHILE BEING HELD FOR DELIVERY,
27 IF THE TRANSPORTATION OR DELIVERY IS SUBJECT TO AND CONFORMS WITH
28 REGULATIONS ADOPTED BY THE UNITED STATES DEPARTMENT OF
29 TRANSPORTATION OR UNITED STATES COAST GUARD.

30 (B) SAFETY SIGNALS.

31 THIS SUBTITLE DOES NOT APPLY TO THE RECEIPT, POSSESSION, AND USE OF
32 SIGNALS REQUIRED FOR THE SAFE OPERATION OF VESSELS, MOTOR VEHICLES,
33 RAILROAD CARS, OR AIRCRAFT BY THEIR OPERATORS.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from the second sentence of former Art. 38A, § 35.

3 Defined term: "Explosives" § 11-101

4 11-103. REGULATIONS.

5 THE STATE FIRE PREVENTION COMMISSION MAY ADOPT REGULATIONS TO
6 CARRY OUT THIS SUBTITLE.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from the first sentence of former Art. 38A, § 33.

9 The former reference to "rules" is deleted as included in the reference to
10 "regulations". *See* General Revisor's Note to article.

11 The former reference to regulations that the Commission "may deem
12 necessary and proper" is deleted as implicit in the authority to adopt
13 regulations to carry out this subtitle.

14 11-104. POWERS OF STATE FIRE MARSHAL.

15 (A) INVESTIGATIONS OF EXPLOSIONS AND FIRES -- IN GENERAL.

16 (1) THE STATE FIRE MARSHAL MAY INVESTIGATE AN EXPLOSION OR
17 FIRE THAT OCCURS IN ANY PLACE WHERE EXPLOSIVES OR INGREDIENTS FOR
18 EXPLOSIVES ARE MANUFACTURED, TRANSPORTED, STORED, OR USED.

19 (2) THE STATE FIRE MARSHAL MAY INVESTIGATE AN EXPLOSION,
20 ACCIDENT, OR FIRE IF THERE IS REASON TO BELIEVE EXPLOSIVES WERE INVOLVED.

21 (B) SAME -- REPORT OF FINDINGS.

22 THE STATE FIRE MARSHAL MAY REPORT THE FINDINGS OF AN INVESTIGATION
23 UNDER SUBSECTION (A) OF THIS SECTION TO FEDERAL OR STATE AUTHORITIES:

24 (1) IF THE EXPLOSION OR FIRE WAS A WILLFUL ACT, FOR CRIMINAL
25 PROSECUTION OF THE PERSON CAUSING THE WILLFUL ACT; OR

26 (2) IF THE EXPLOSION OR FIRE WAS ACCIDENTAL, SO THAT
27 PRECAUTIONS MAY BE TAKEN TO PREVENT SIMILAR ACCIDENTS FROM OCCURRING.

28 (C) SAME -- AUTHORITY OF EMPLOYEES TO ENTER PREMISES.

29 (1) IN AN INVESTIGATION UNDER SUBSECTION (A) OF THIS SECTION,
30 THE EMPLOYEES UNDER THE DIRECTION OF THE STATE FIRE MARSHAL MAY ENTER
31 THE PREMISES WHERE THE EXPLOSION OR FIRE HAS OCCURRED TO:

32 (I) EXAMINE DOCUMENTS; OR

1 (II) ADMINISTER OATHS TO AND EXAMINE WITNESSES AND OTHER
2 PERSONS CONCERNED.

3 (2) THE OWNER, LESSEE, OR OPERATOR OF THE PREMISES WHERE THE
4 EXPLOSION OR FIRE HAS OCCURRED, OR AN AGENT OF THESE PERSONS, MAY NOT
5 HINDER THE ACTIONS OF AN EMPLOYEE OF THE STATE FIRE MARSHAL DESCRIBED
6 UNDER PARAGRAPH (1) OF THIS SUBSECTION.

7 (D) MISCELLANEOUS FEES.

8 THE STATE FIRE MARSHAL MAY COLLECT A FEE OF \$20 FOR:

9 (1) INSPECTION OF THE VEHICLE OF AN EXPLOSIVE HAULER; AND

10 (2) A BLASTER'S CERTIFICATE.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 38A, § 32(d) and the third through sixth sentences
13 of § 33.

14 In subsection (a)(1) of this section, the reference to ingredients "for
15 explosives" is added to state explicitly that which was only implied in the
16 former law.

17 Also in subsection (a)(1) of this section, the former specific references to
18 "mines", "quarries", "factories", "warehouses", "magazines", "houses",
19 "cars", "boats", and "conveyances" are deleted as unnecessary in light of the
20 general reference to "any place" where explosives or ingredients for
21 explosives are manufactured, transported, stored, or used.

22 The Public Safety Article Review Committee notes, for consideration by the
23 General Assembly, that subsection (a)(1) of this section does not explicitly
24 authorize entry into a place where an explosion or fire occurs.

25 In the introductory language of subsection (b) of this section, the former
26 phrase "in his discretion" is deleted as implicit. Similarly, the former
27 phrase "in such manner as he may deem fit" is deleted as implicit in the
28 authority to report.

29 Also in the introductory language of subsection (b) of this section, the
30 former word "proper", which modified "federal or State authorities", is
31 deleted as surplusage.

32 In subsection (b)(1) and (2) of this section, the reference to a "fire" is added
33 for consistency with subsections (a) and (c) of this section.

34 In subsection (b)(1) of this section, the phrase "for criminal prosecution" is
35 substituted for the former phrase "may be proceeded against and brought
36 to justice" for clarity and brevity.

1 %In the introductory language of subsection (c)(1) of this section, the former
2 reference to "prosecution" is deleted as implicit in the reference to
3 "investigation".

4 In subsection (c)(1)(i) of this section, the general reference to "documents"
5 is substituted for the former specific reference to "plans, books and papers"
6 for brevity.

7 Subsection (c)(2) of this section is revised as a prohibition to state explicitly
8 that which only was implied in the former law.

9 In subsection (c)(2) of this section, the former word "let" is deleted as
10 included in the reference to "hinder".

11 Defined terms: "Explosives" § 11-101

12 "Person" § 1-101

13 11-105. LICENSE REQUIRED; EXCEPTIONS.

14 (A) IN GENERAL.

15 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A PERSON SHALL OBTAIN
16 A LICENSE ISSUED UNDER THIS SUBTITLE BEFORE THE PERSON ENGAGES IN
17 BUSINESS AS A MANUFACTURER OR DEALER, POSSESSES EXPLOSIVES OTHER THAN
18 EXPLOSIVES FOR USE IN FIREARMS, OR POSSESSES OR STORES EXPLOSIVES FOR USE
19 IN FIREARMS IN THE STATE.

20 (B) LICENSE TO ENGAGE IN BUSINESS AS DEALER REQUIRED.

21 (1) A PERSON SHALL OBTAIN A LICENSE TO ENGAGE IN BUSINESS AS A
22 DEALER UNDER THIS SUBTITLE BEFORE THE PERSON ENGAGES IN THE BUSINESS OF
23 LOADING OR RELOADING SMALL ARMS AMMUNITION IN THE STATE.

24 (2) THE OWNER OR OPERATOR OF A MINE, QUARRY, OR OTHER
25 OPERATION OR BUSINESS THAT USES EXPLOSIVES, OR A CONTRACTOR WHO
26 PERFORMS WORK THAT USES EXPLOSIVES, SHALL OBTAIN A LICENSE TO ENGAGE IN
27 BUSINESS AS A DEALER UNDER THIS SUBTITLE.

28 (C) EXCEPTIONS -- ARMED FORCES AND OTHERS HANDLING EXPLOSIVES.

29 THIS SECTION DOES NOT APPLY TO THE ARMED FORCES OF THE UNITED
30 STATES, THE NATIONAL GUARD, THE STATE GUARD, OR OFFICERS OR EMPLOYEES OF
31 THE UNITED STATES, THE STATE, OR A LOCAL SUBDIVISION OF THE STATE WHO ARE
32 AUTHORIZED TO HANDLE EXPLOSIVES IN THE PERFORMANCE OF THEIR DUTIES.

33 (D) SAME -- POSSESSION OF EXPLOSIVES FOR USE IN FIREARMS.

34 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON NEED
35 NOT OBTAIN A LICENSE TO POSSESS OR STORE UP TO 5 POUNDS OF SMOKELESS
36 POWDER FOR THE LOADING OR RELOADING OF SMALL ARMS AMMUNITION, AND UP

1 TO 5 POUNDS OF BLACK POWDER FOR THE LOADING OR RELOADING OF SMALL ARMS
2 AMMUNITION OR FOR USE IN THE LOADING OF ANTIQUE ARMS OR REPLICAS OF
3 ANTIQUE ARMS, IF THE SMOKELESS POWDER AND BLACK POWDER ARE STORED IN
4 THEIR ORIGINAL SHIPPING CONTAINERS AND ARE POSSESSED ONLY FOR PERSONAL
5 USE IN FIREARMS.

6 (2) A PERSON MAY NOT POSSESS OR STORE EXPLOSIVES FOR USE IN
7 FIREARMS IN ANY QUANTITY IN MULTIFAMILY DWELLINGS, APARTMENTS,
8 DORMITORIES, HOTELS, SCHOOLS, OTHER PUBLIC BUILDINGS, OR BUILDINGS OR
9 STRUCTURES OPEN FOR PUBLIC USE.

10 (3) NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, THE
11 STATE FIRE MARSHAL MAY ISSUE A PERMIT TO ALLOW TEMPORARY POSSESSION OF
12 EXPLOSIVES FOR USE IN FIREARMS IN A BUILDING OR STRUCTURE OPEN FOR
13 PUBLIC USE.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 38A, §§ 27, 27A, 27B, the first clause of the first
16 sentence of § 29, and the first sentence of § 35.

17 Subsection (a) of this section is rephrased in standard language to state
18 affirmatively that a person must be licensed to engage in business as a
19 manufacturer or dealer, to possess explosives other than explosives for use
20 in firearms, or to possess or store explosives for use in firearms in the
21 State.

22 In subsection (a) of this section, the defined term "explosives for use in
23 firearms" is substituted for the former reference to "smokeless powder or
24 black powder for use in firearms" for clarity and to use the defined term.

25 Also in subsection (a) of this section, the former reference to "a quantity ...
26 in excess of those quantities set forth in subsection (a) of this section" is
27 deleted. Except as provided in subsection (d) of this section, a person must
28 obtain a license to possess or store explosives for use in firearms.

29 In subsection (d)(1) of this section, the former phrase "confined strictly for
30 use" in firearms is deleted as redundant. Subsection (d)(1) of this section is
31 limited solely to personal use of these explosives.

32 Defined terms: "Dealer" § 11-101

33 "Explosives" § 11-101

34 "Explosives for use in firearms" § 11-101

35 "Manufacturer" § 11-101

36 "Person" § 1-101

37 11-106. APPLICATIONS FOR LICENSES.

38 (A) IN GENERAL.

1 (1) AN APPLICANT FOR A LICENSE TO ENGAGE IN BUSINESS AS A
2 MANUFACTURER OR DEALER, TO POSSESS EXPLOSIVES OTHER THAN EXPLOSIVES
3 FOR USE IN FIREARMS, OR TO POSSESS EXPLOSIVES FOR USE IN FIREARMS SHALL
4 SUBMIT AN APPLICATION ON THE FORM THAT THE STATE FIRE MARSHAL PROVIDES.

5 (2) THE APPLICATION SHALL INCLUDE THE FOLLOWING INFORMATION:

6 (I) THE NAME AND ADDRESS OF THE APPLICANT;

7 (II) THE REASON FOR DESIRING THE REQUESTED LICENSE;

8 (III) IF THE APPLICANT IS AN INDIVIDUAL, THE CITIZENSHIP OF
9 THE INDIVIDUAL; AND

10 (IV) IF THE APPLICANT IS A PARTNERSHIP, ASSOCIATION, OR
11 CORPORATION, THE NAMES, ADDRESSES, AND CITIZENSHIP OF THE PARTNERS OF
12 THE PARTNERSHIP OR OFFICERS AND DIRECTORS OF THE ASSOCIATION OR
13 CORPORATION.

14 (B) PROOF OF LIABILITY INSURANCE.

15 AN APPLICANT FOR A LICENSE TO ENGAGE IN BUSINESS AS A MANUFACTURER
16 OR DEALER OR TO POSSESS EXPLOSIVES OTHER THAN EXPLOSIVES FOR USE IN
17 FIREARMS SHALL PROVIDE PROOF OF LIABILITY INSURANCE IN THE AMOUNT THAT
18 THE STATE FIRE PREVENTION COMMISSION SETS.

19 (C) ADDITIONAL INFORMATION FOR LICENSE TO POSSESS EXPLOSIVES.

20 IN ADDITION, AN APPLICANT FOR A LICENSE TO POSSESS EXPLOSIVES OTHER
21 THAN EXPLOSIVES FOR USE IN FIREARMS SHALL INCLUDE THE FOLLOWING
22 INFORMATION:

23 (1) THE PLACE WHERE THE EXPLOSIVES WILL BE STORED;

24 (2) THE PLACE WHERE THE EXPLOSIVES WILL BE USED; AND

25 (3) THE SPECIFIC PURPOSE FOR USING THE EXPLOSIVES.

26 (D) WHERE TO SUBMIT APPLICATION.

27 (1) AN APPLICANT FOR A LICENSE TO POSSESS EXPLOSIVES OTHER
28 THAN EXPLOSIVES FOR USE IN FIREARMS SHALL SUBMIT THE APPLICATION:

29 (I) TO THE LOCAL LICENSING AUTHORITY; OR

30 (II) IF THE APPLICANT IS A NONRESIDENT OF THE STATE AND HAS
31 NO REGULAR PLACE OF BUSINESS IN THE STATE, TO THE STATE FIRE MARSHAL.

32 (2) ALL OTHER APPLICANTS FOR LICENSES SHALL SUBMIT THE
33 APPLICATION TO THE STATE FIRE MARSHAL.

1 (E) FEES.

2 (1) EACH APPLICATION FOR A LICENSE SHALL BE ACCOMPANIED BY
3 THE FOLLOWING FEE:

4 (I) LICENSE TO ENGAGE IN BUSINESS AS A MANUFACTURER OF:

- 5 1. 0-499 POUNDS OF EXPLOSIVES \$50
- 6 2. 500-4,999 POUNDS OF EXPLOSIVES..... \$100
- 7 3. 5,000-9,999 POUNDS OF EXPLOSIVES..... \$250
- 8 4. 10,000 POUNDS OR MORE OF EXPLOSIVES \$500

9 (II) LICENSE TO ENGAGE IN BUSINESS AS A DEALER FOR:

- 10 1. RETAIL ONLY..... \$25
- 11 2. USERS..... \$50
- 12 3. WHOLESALE AND RETAIL..... \$100

13 (III) STORAGE LICENSE FOR:

- 14 1. CLASS A - 500 POUNDS OR MORE OF EXPLOSIVES \$50
- 15 2. CLASS B - 499 POUNDS OR LESS OF EXPLOSIVES \$25

16 (2) IF AN APPLICATION IS DENIED, THE APPLICATION FEE SHALL BE
17 RETURNED TO THE APPLICANT.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 38A, § 32(c) and the first sentences of § 28(a), (b),
20 (c), and (d).

21 In subsection (d)(1)(i) of this section, the defined term "local licensing
22 authority" is substituted for the former reference to the "sheriff of the
23 county, or chief of police of the county or of the community in which the
24 applicant resides or has his regular place of business" for brevity and to
25 use the defined term.

26 Also in subsection (d)(1)(i) of this section, the former phrase "in writing" is
27 deleted as implicit.

28 In subsection (d)(1)(ii) of this section, the reference to a nonresident "of the
29 State" is added to state explicitly that which formerly was only implied.

30 Defined terms: "Dealer" § 11-101

31 "Explosives" § 11-101

32 "Explosives for use in firearms" § 11-101

1 "Local licensing authority" § 11-101

2 "Manufacturer" § 11-101

3 11-107. ISSUANCE OF LICENSE.

4 (A) IN GENERAL.

5 THE STATE FIRE MARSHAL SHALL ISSUE A LICENSE TO EACH APPLICANT WHO
6 MEETS THE REQUIREMENTS OF THIS SUBTITLE.

7 (B) DENIAL OF APPLICATION -- GROUNDS.

8 SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE STATE FIRE MARSHAL
9 SHALL DENY AN APPLICATION FOR A LICENSE IF THE STATE FIRE MARSHAL FINDS
10 THAT:

11 (1) THE APPLICANT, OR AN OFFICER, AGENT, OR EMPLOYEE OF THE
12 APPLICANT WHO WILL BE HANDLING EXPLOSIVES, IS NOT SUFFICIENTLY
13 EXPERIENCED AND WILL NOT BE SUPERVISED SATISFACTORILY IN
14 MANUFACTURING, DEALING IN, OR HANDLING OF EXPLOSIVES, AS APPLICABLE;

15 (2) THE APPLICANT LACKS SUITABLE FACILITIES FOR
16 MANUFACTURING, DEALING IN, OR HANDLING EXPLOSIVES;

17 (3) THE APPLICANT, OR AN OFFICER, AGENT, OR EMPLOYEE OF THE
18 APPLICANT WHO WILL BE HANDLING EXPLOSIVES, HAS BEEN CONVICTED OF A
19 FELONY OR CRIME INVOLVING VIOLENCE;

20 (4) THE APPLICANT, OR AN OFFICER, AGENT, OR EMPLOYEE OF THE
21 APPLICANT WHO WILL BE HANDLING EXPLOSIVES, IS DISLOYAL TO THE UNITED
22 STATES;

23 (5) THE APPLICANT, OR AN OFFICER, AGENT, OR EMPLOYEE OF THE
24 APPLICANT WHO WILL BE HANDLING EXPLOSIVES, WILL USE THE EXPLOSIVES FOR
25 AN ILLEGAL PURPOSE;

26 (6) THE APPLICATION CONTAINS FALSE INFORMATION; OR

27 (7) THE APPLICATION FAILS TO PROVIDE REQUIRED INFORMATION.

28 (C) SAME -- EXCEPTIONS.

29 (1) AN APPLICANT FOR A LICENSE TO POSSESS EXPLOSIVES FOR USE IN
30 FIREARMS NEED NOT HAVE SUFFICIENT EXPERIENCE IN HANDLING EXPLOSIVES
31 AND BE SUPERVISED SATISFACTORILY IN HANDLING EXPLOSIVES.

32 (2) AN APPLICANT FOR A LICENSE TO POSSESS EXPLOSIVES OTHER
33 THAN EXPLOSIVES FOR USE IN FIREARMS TO BE USED FOR AGRICULTURAL
34 PURPOSES ON THE PREMISES OF THE APPLICANT NEED NOT:

35 (I) HAVE SUFFICIENT EXPERIENCE IN HANDLING EXPLOSIVES;

- 1 (II) BE SUPERVISED SATISFACTORILY IN HANDLING EXPLOSIVES;
 2 OR
- 3 (III) HAVE SUITABLE FACILITIES FOR HANDLING EXPLOSIVES.
- 4 (D) CERTIFICATION OF COMPLIANCE WITH WORKERS' COMPENSATION ACT.

5 BEFORE A LICENSE MAY BE ISSUED UNDER THIS SUBTITLE TO AN EMPLOYER
 6 TO ENGAGE IN AN ACTIVITY IN WHICH THE EMPLOYER MAY EMPLOY A COVERED
 7 EMPLOYEE, AS DEFINED IN § 9-101 OF THE LABOR AND EMPLOYMENT ARTICLE, THE
 8 EMPLOYER SHALL FILE WITH THE STATE FIRE MARSHAL:

- 9 (1) A CERTIFICATE OF COMPLIANCE WITH THE MARYLAND WORKERS'
 10 COMPENSATION ACT; OR
- 11 (2) THE NUMBER OF A WORKERS' COMPENSATION INSURANCE POLICY
 12 OR BINDER.
- 13 (E) NOTICE OF ISSUANCE.

14 ON ISSUANCE OF A LICENSE UNDER THIS SECTION, THE STATE FIRE MARSHAL
 15 SHALL NOTIFY:

- 16 (1) THE FIRE CHIEF OR FIRE ADMINISTRATOR IN THE COUNTY WHERE
 17 THE LICENSE WAS ISSUED; OR
- 18 (2) IF THE COUNTY DOES NOT HAVE A COUNTY FIRE CHIEF OR FIRE
 19 ADMINISTRATOR, THE LOCAL 9-1-1 CENTER.

20 REVISOR'S NOTE: This section is new language derived without substantive
 21 change from former Art. 38A, §§ 29A and 28(e) and the second sentences of
 22 (a), (b), (c), and (d).

23 In subsection (b)(1) of this section, the phrase "as applicable" is added to
 24 clarify that a person would be disqualified from obtaining a license only for
 25 the reasons relating to that particular license.

26 Subsection (c)(1) of this section is added to clarify what was implicit in the
 27 former law, *i.e.*, that an applicant to possess explosives for use in firearms
 28 need not have sufficient experience in handling explosives and be
 29 supervised satisfactorily in handling explosives.

30 In the introductory language of subsection (d) of this section, the former
 31 word "permit" is deleted as unnecessary. The only permit provided for in
 32 this subtitle is a permit to allow temporary possession of explosives for use
 33 in firearms in a building or structure open for public use. This is not an
 34 activity that normally involves an employer of individuals.

35 Also in the introductory language of subsection (d) of this section, the
 36 reference to this "subtitle" is substituted for the former reference to this

1 "article" to limit the scope of this provision to the explosives provisions,
2 and not to all activities regulated by the State Fire Marshal under this
3 article. The Public Safety Article Review Committee notes this substitution
4 for the consideration of the General Assembly.

5 In subsection (e)(2) of this section, the reference to the "9-1-1" center is
6 substituted for the former reference to the "911" center for consistency with
7 terminology used in Title 1, Subtitle 3 of this article.

8 Also in subsection (e)(2) of this section, the former reference to notification
9 "of the license issued" is deleted as redundant.

10 Defined terms: "County" § 1-101

11 "Explosives" § 11-101

12 "Explosives for use in firearms" § 11-101

13 "Local licensing authority" § 11-101

14 11-108. SCOPE OF LICENSE TO ENGAGE IN BUSINESS AS DEALER.

15 A LICENSE TO ENGAGE IN BUSINESS AS A DEALER AUTHORIZES THE LICENSEE
16 TO STORE 1.4 G FIREWORKS AND 1.3 G DISPLAY FIREWORKS AT APPROVED
17 LOCATIONS IN STORAGE BUILDINGS APPROVED BY THE STATE FIRE MARSHAL OR
18 THE LOCAL AUTHORITY WITH JURISDICTION OVER LOCAL FIRE PREVENTION CODES.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from the fourth sentence of former Art. 38A, § 19(e), as it related to
21 licensed explosives dealers.

22 Defined term: "Dealer" § 11-101

23 11-109. TERM OF LICENSE.

24 A LICENSE ISSUED UNDER THIS SUBTITLE EXPIRES ON THE FIRST
25 ANNIVERSARY OF ITS EFFECTIVE DATE UNLESS SOONER REVOKED.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 38A, § 32(b).

28 11-110. EMPLOYEES OF BUSINESSES OR OPERATIONS THAT USE EXPLOSIVES.

29 (A) SALE OR ISSUANCE OF EXPLOSIVES TO EMPLOYEES.

30 THE OWNER OR OPERATOR OF A MINE, QUARRY, OR OTHER OPERATION OR
31 BUSINESS THAT USES EXPLOSIVES, OR A CONTRACTOR WHO PERFORMS WORK THAT
32 USES EXPLOSIVES, REQUIRED TO OBTAIN A LICENSE TO ENGAGE IN BUSINESS AS A
33 DEALER UNDER THIS SUBTITLE:

34 (1) MAY ISSUE OR SELL TO EACH EMPLOYEE ONLY THE AMOUNT OF
35 EXPLOSIVES AS IS REASONABLY REQUIRED BY THAT EMPLOYEE TO PERFORM THE
36 EMPLOYEE'S DUTIES;

1 (2) SHALL ENSURE THAT ANY EXPLOSIVES ISSUED OR SOLD TO AN
2 EMPLOYEE ARE NOT TAKEN BY THE EMPLOYEE TO A PLACE NOT NECESSARY FOR
3 THE EMPLOYEE TO PERFORM THE EMPLOYEE'S DUTIES; AND

4 (3) SHALL ENSURE THAT ANY UNUSED EXPLOSIVES ARE RETURNED TO
5 THE OWNER, OPERATOR, OR CONTRACTOR ON TERMINATION OF THE WORK FOR
6 WHICH THE EXPLOSIVES WERE ISSUED OR SOLD TO THE EMPLOYEE.

7 (B) LICENSE NOT REQUIRED.

8 REGARDLESS OF WHETHER THE OWNER, OPERATOR, OR CONTRACTOR HAS
9 OBTAINED A LICENSE TO ENGAGE IN BUSINESS AS A DEALER, AN EMPLOYEE OF THE
10 OWNER, OPERATOR, OR CONTRACTOR NEED NOT OBTAIN A LICENSE TO POSSESS
11 EXPLOSIVES OTHER THAN EXPLOSIVES FOR USE IN FIREARMS IN ORDER TO POSSESS
12 EXPLOSIVES ISSUED OR SOLD TO THE EMPLOYEE BY THE OWNER, OPERATOR, OR
13 CONTRACTOR.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from the second and third clauses of the first sentence and second
16 clause of the second sentence of former Art. 38A, § 29.

17 In subsection (a)(1) of this section, the word "may" is substituted for the
18 former phrase "shall be the duty" to indicate that this provision is a grant
19 of authority to an owner, operator, or contractor, not a duty.

20 In subsection (a)(2) and (3) of this section, the word "ensure" is substituted
21 for the former word "see" for clarity.

22 Defined terms: "Dealer" § 11-101

23 "Explosives" § 11-101

24 11-111. REVOCATIONS OF LICENSES.

25 A LICENSE ISSUED UNDER THIS SUBTITLE MAY BE REVOKED BY THE STATE
26 FIRE MARSHAL FOR:

27 (1) A GROUND SPECIFIED UNDER § 11-107 OF THIS SUBTITLE FOR
28 DENYING AN APPLICATION FOR A LICENSE; OR

29 (2) A VIOLATION OF REGULATIONS ADOPTED BY THE STATE FIRE
30 PREVENTION COMMISSION TO REGULATE THE USE, HANDLING, AND STORAGE OF
31 EXPLOSIVES.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 38A, § 32(a).

34 In the introductory language of this section, the reference to the "State
35 Fire Marshal" is substituted for the former reference to the "official issuing
36 the [license]" for specificity.

1 Defined term: "Explosives" § 11-101

2 11-112. RECORDS AND REPORTS OF MANUFACTURERS AND DEALERS.

3 (A) RECORDS.

4 (1) EACH MANUFACTURER AND EACH DEALER SHALL KEEP, FOR ALL
5 EXPLOSIVES SHIPPED, PURCHASED, OR SOLD, A RECORD THAT INCLUDES:

6 (I) THE NAME AND ADDRESS OF EACH CONSIGNEE, BUYER, OR
7 SELLER OF THE EXPLOSIVES;

8 (II) THE DATE OF EACH SHIPMENT, PURCHASE, OR SALE; AND

9 (III) THE AMOUNT AND DESCRIPTION OF THE EXPLOSIVES.

10 (2) EACH RECORD KEPT UNDER THIS SUBSECTION SHALL AT ALL TIMES
11 BE OPEN FOR INSPECTION BY AGENTS OF THE LICENSING AUTHORITY AND BY
12 FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT OFFICERS.

13 (3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, EACH
14 MANUFACTURER AND EACH DEALER SHALL PROVIDE A COPY OF EACH RECORD KEPT
15 UNDER THIS SUBSECTION TO THE STATE FIRE MARSHAL IN THE FORM THAT THE
16 STATE FIRE MARSHAL REQUIRES.

17 (II) A RECORD KEPT UNDER THIS SUBSECTION SHALL BE
18 PROVIDED ON REQUEST, BUT NEED NOT BE FILED MORE THAN ONCE IN EACH
19 CALENDAR MONTH.

20 (B) REPORTS TO LICENSING AUTHORITIES.

21 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, EACH
22 MANUFACTURER SHALL FILE WITH THE LICENSING AUTHORITY OF EACH STATE,
23 OTHER THAN THIS STATE, TO WHICH EXPLOSIVES HAVE BEEN SHIPPED BY THE
24 MANUFACTURER, A REPORT THAT INCLUDES:

25 (I) THE NAME OF EACH BUYER TO WHOM EXPLOSIVES HAVE BEEN
26 SHIPPED IN THAT STATE; AND

27 (II) THE AMOUNT AND DESCRIPTION OF THE EXPLOSIVES.

28 (2) A REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION
29 SHALL BE FILED ON REQUEST, BUT NEED NOT BE FILED MORE THAN ONCE IN EACH
30 CALENDAR MONTH.

31 (3) IN LIKE MANNER, EACH MANUFACTURER SHALL FILE WITH THE
32 STATE FIRE MARSHAL A REPORT THAT INCLUDES:

33 (I) THE NAME OF EACH BUYER OF EXPLOSIVES IN THIS STATE;
34 AND

1 (II) THE AMOUNT AND DESCRIPTION OF THE EXPLOSIVES.

2 REVISOR'S NOTE: This section is new language derived without substantive
3 change from former Art. 38A, § 30.

4 In subsection (a)(1)(i) of this section, the references to the "buyer" or
5 "seller" are substituted for the former references to the "vendor" or
6 "vendee", respectively, for clarity. Consequently, in subsection (b)(1)(i) and
7 (3)(i) of this section, the reference to each "buyer" is substituted for the
8 former reference to each "purchaser" for consistency.

9 In subsection (a)(1)(iii) of this section, the reference to a "description" of the
10 explosives is substituted for the former reference to the "kind" of explosives
11 to conform with subsection (b)(1)(ii) and (3)(ii) of this section.

12 In subsection (a)(2) of this section, the former reference to "duly
13 authorized" agents is deleted as implicit.

14 Defined terms: "Dealer" § 11-101

15 "Explosives" § 11-101

16 "Manufacturer" § 11-101

17 "State" § 1-101

18 11-113. REPORTS OF THEFT OF EXPLOSIVES.

19 EACH THEFT OR OTHER UNAUTHORIZED TAKING OF EXPLOSIVES FROM A
20 LICENSEE UNDER THIS SUBTITLE SHALL BE REPORTED BY THE LICENSEE TO THE
21 STATE FIRE MARSHAL:

22 (1) IMMEDIATELY BY TELEPHONE; AND

23 (2) BY A WRITTEN REPORT IN THE FORM REQUIRED BY THE STATE FIRE
24 MARSHAL.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 38A, § 33A.

27 In the introductory language of this section, the former reference to the
28 "office of" the State Fire Marshal is deleted as surplusage.

29 In item (1) of this section, the former reference to reporting a theft "upon
30 discovery" is deleted as implicit in light of the requirement that the theft
31 be reported immediately.

32 Defined term: "Explosives" § 11-101

33 11-114. PROHIBITED ACTS; PENALTY -- IN GENERAL.

34 (A) ENGAGING IN BUSINESS AS MANUFACTURER OR DEALER WITHOUT
35 LICENSE PROHIBITED.

1 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A PERSON MAY NOT
2 ENGAGE IN BUSINESS AS A MANUFACTURER OR DEALER IN THE STATE UNLESS THE
3 PERSON IS LICENSED UNDER THIS SUBTITLE.

4 (B) POSSESSION OF EXPLOSIVES OTHER THAN EXPLOSIVES FOR USE IN
5 FIREARMS WITHOUT LICENSE PROHIBITED.

6 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A PERSON MAY NOT
7 POSSESS EXPLOSIVES OTHER THAN EXPLOSIVES FOR USE IN FIREARMS IN THE
8 STATE UNLESS THE PERSON IS LICENSED UNDER THIS SUBTITLE.

9 (C) SALE TO UNLICENSED PERSONS PROHIBITED.

10 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A DEALER MAY NOT
11 SELL, BARTER, GIVE, OR DISPOSE OF EXPLOSIVES OTHER THAN EXPLOSIVES FOR USE
12 IN FIREARMS TO A PERSON UNLESS THE PERSON IS LICENSED UNDER THIS
13 SUBTITLE.

14 (D) ENGAGING IN BUSINESS AS DEALER WITHOUT LICENSE PROHIBITED.

15 THE OWNER OR OPERATOR OF A MINE, QUARRY, OR OTHER OPERATION THAT
16 USES EXPLOSIVES, AND A CONTRACTOR PERFORMING WORK THAT USES
17 EXPLOSIVES, MAY NOT ENGAGE IN BUSINESS AS A DEALER IN THE STATE UNLESS
18 THE PERSON IS LICENSED UNDER THIS SUBTITLE.

19 (E) PROHIBITIONS ON EMPLOYEES.

20 AN EMPLOYEE OF AN OWNER OR OPERATOR OF A MINE, QUARRY, OR OTHER
21 OPERATION THAT USES EXPLOSIVES, OR OF A CONTRACTOR PERFORMING WORK
22 THAT USES EXPLOSIVES, MAY NOT POSSESS EXPLOSIVES IN A PLACE NOT
23 NECESSARY FOR THE EMPLOYEE TO PERFORM THE EMPLOYEE'S DUTIES UNLESS
24 THE EMPLOYEE IS LICENSED TO POSSESS EXPLOSIVES UNDER THIS SUBTITLE.

25 (F) VIOLATION OF REGULATIONS PROHIBITED.

26 A PERSON MAY NOT VIOLATE A REGULATION ADOPTED UNDER THIS SUBTITLE.

27 (G) PENALTY.

28 EXCEPT AS OTHERWISE PROVIDED IN § 11-116 OF THIS SUBTITLE, A PERSON
29 WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION
30 IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING
31 \$5,000 OR BOTH.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 38A, §§ 27, 27A, 31, 34, 34C, and the third
34 sentence and the first clauses of the first and second sentences of § 29.

35 In subsection (g) of this section, the reference to being guilty "of a
36 misdemeanor" is added to state expressly that which was only implied in

1 the former law. In this State, any crime that was not a felony at common
2 law and has not been declared a felony by statute is considered to be a
3 misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v.*
4 *State*, 136 Md. 342, 345 (1920); *Dutton v. State*, 123 Md. 373, 378 (1914);
5 and *Williams v. State*, 4 Md. App. 342, 347 (1968).

6 Also in subsection (g) of this section, the former phrases "in the discretion
7 of the court" are deleted as implicit in the prerogatives of courts.

8 The Public Safety Article Review Committee notes, for consideration by the
9 General Assembly, that the reference in former Art. 38A, § 34 to former §
10 32 appears to be incorrect. Former § 32 covered administrative provisions.
11 The Committee suggests that corrective legislation is needed.

12 Defined terms: "Dealer" § 11-101

13 "Explosives" § 11-101

14 "Explosives for use in firearms" § 11-101

15 "Manufacturer" § 11-101

16 "Person" § 1-101

17 11-115. SAME -- EXPLOSIVES FOR USE IN FIREARMS; REQUIRED REPORTS.

18 (A) PROHIBITIONS ON POSSESSION OR STORAGE OF EXPLOSIVES FOR USE IN
19 FIREARMS.

20 (1) A PERSON MAY NOT POSSESS AT ANY TIME OR STORE IN ANY ONE
21 PLACE MORE THAN 5 POUNDS OF SMOKELESS POWDER OR MORE THAN 5 POUNDS OF
22 BLACK POWDER FOR USE IN FIREARMS UNLESS THE PERSON IS LICENSED UNDER
23 THIS SUBTITLE.

24 (2) A PERSON MAY NOT ENGAGE IN THE BUSINESS OF LOADING OR
25 RELOADING SMALL ARMS AMMUNITION UNLESS THE PERSON IS LICENSED TO
26 ENGAGE IN BUSINESS AS A DEALER UNDER THIS SUBTITLE.

27 (3) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A PERSON
28 MAY NOT POSSESS OR STORE EXPLOSIVES FOR USE IN FIREARMS IN ANY QUANTITY
29 IN MULTIFAMILY DWELLINGS, APARTMENTS, DORMITORIES, HOTELS, SCHOOLS OR
30 OTHER PUBLIC BUILDINGS, OR BUILDINGS OR STRUCTURES OPEN FOR PUBLIC USE.

31 (B) PROHIBITION ON SALE OF EXPLOSIVES FOR USE IN FIREARMS.

32 A DEALER MAY NOT SELL, BARTER, GIVE, OR DISPOSE OF MORE THAN 5 POUNDS
33 OF BLACK POWDER OR MORE THAN 5 POUNDS OF SMOKELESS POWER FOR USE IN
34 FIREARMS TO ANY ONE PERSON AT ANY ONE TIME UNLESS THE PERSON IS
35 LICENSED UNDER THIS SUBTITLE.

36 (C) FAILURE TO FILE REPORTS OR RECORDS PROHIBITED.

37 A PERSON MAY NOT FAIL TO FILE REPORTS OR RECORDS REQUIRED UNDER §
38 11-112 OF THIS SUBTITLE.

1 (D) FAILURE TO FILE REPORT OF THEFT PROHIBITED.

2 A PERSON MAY NOT FAIL TO FILE A REPORT OF THEFT OF EXPLOSIVES
3 REQUIRED UNDER § 11-113 OF THIS SUBTITLE.

4 (E) PENALTY.

5 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
6 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A
7 FINE NOT EXCEEDING \$500 OR BOTH.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 38A, §§ 31A, 34D, and 27B(b), (c), and (d)(1).

10 In subsection (e) of this section, the reference to being guilty "of a
11 misdemeanor" is added to state expressly that which was only implied in
12 the former law. In this State, any crime that was not a felony at common
13 law and has not been declared a felony by statute is considered to be a
14 misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v.*
15 *State*, 136 Md. 342, 345 (1920); *Dutton v. State*, 123 Md. 373, 378 (1914);
16 and *Williams v. State*, 4 Md. App. 342, 347 (1968).

17 Also in subsection (e) of this section, the former phrase "in the discretion of
18 the court" is deleted as implicit in the prerogatives of courts.

19 Defined terms: "Dealer" § 11-101

20 "Explosives for use in firearms" § 11-101

21 "Person" § 1-101

22 11-116. ADDITIONAL PENALTIES.

23 (A) FOR VIOLATION OF § 11-114(B).

24 (1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF THIS
25 SUBSECTION, A PERSON WHO VIOLATES § 11-114(B) OF THIS SUBTITLE IS GUILTY OF A
26 FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 20
27 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH.

28 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A PERSON
29 WHO NEITHER INTENDED TO USE NOR USED THE EXPLOSIVES INVOLVED IN
30 VIOLATION OF:

31 (I) TITLE 3, SUBTITLE 3 OR SUBTITLE 5, TITLE 5, SUBTITLE 1,
32 SUBTITLE 2, SUBTITLE 3, OR SUBTITLE 4, § 6-602, § 7-402, OR § 12-1101 OF THIS
33 ARTICLE;

34 (II) TITLE 1, SUBTITLE 3, TITLE 3, SUBTITLE 7, OR § 4-123.1 OF THE
35 AGRICULTURE ARTICLE;

- 1 (III) TITLE 19, SUBTITLE 2 OR SUBTITLE 3 OF THE BUSINESS
2 REGULATION ARTICLE;
- 3 (IV) TITLE 14, SUBTITLE 29, § 11-810, § 14-1316, OR § 14-1317 OF THE
4 COMMERCIAL LAW ARTICLE;
- 5 (V) § 3-218, § 3-305(C)(2), § 3-409(A) OR (C), § 3-803(B), § 3-807(I), §
6 3-808(D), § 3-811(C), § 8-801, § 8-802, § 9-602(E), § 11-702(D)(8), § 11-703(D)(5)(III), §
7 11-706(B)(8), § 11-708(B)(8)(II), § 11-711(H)(2), § 11-712(C)(6)(II), § 11-714(C)(6), § 11-715(G)(2),
8 § 11-716(H)(2), § 11-723(B)(8), OR § 11-726 OF THE CORRECTIONAL SERVICES ARTICLE;
- 9 (VI) THE CRIMINAL LAW ARTICLE OTHER THAN TITLE 8, SUBTITLE 2,
10 PART II OR § 10-614;
- 11 (VII) TITLE 5, SUBTITLE 10A OF THE ENVIRONMENT ARTICLE;
- 12 (VIII) § 5-503 OF THE FAMILY LAW ARTICLE;
- 13 (IX) TITLE 20, SUBTITLE 7 OR § 21-259.1 OF THE HEALTH - GENERAL
14 ARTICLE;
- 15 (X) § 8-713.1, § 8-724.1, § 8-725.5, § 8-725.6, § 8-726.1, § 8-738.1, OR §
16 8-740.1 OF THE NATURAL RESOURCES ARTICLE;
- 17 (XI) § 14-127 OF THE REAL PROPERTY ARTICLE;
- 18 (XII) ARTICLE 2B, TITLE 22 OR § 18-104 OF THE CODE;
- 19 (XIII) ARTICLE 24, § 11-512, § 11-513, OR § 11-514 OF THE CODE;
- 20 (XIV) § 109 OF THE CODE OF PUBLIC LOCAL LAWS OF CAROLINE
21 COUNTY;
- 22 (XV) § 4-103 OF THE CODE OF PUBLIC LOCAL LAWS OF CARROLL
23 COUNTY;
- 24 (XVI) § 8A-1 OF THE CODE OF PUBLIC LOCAL LAWS OF TALBOT
25 COUNTY; OR
- 26 (XVII) FORMER ART. 27, §§ 268B, 268C, AND 268D.
- 27 (B) FOR VIOLATION OF § 11-114(C) OR CONSPIRACY TO VIOLATE § 11-114(B).
- 28 (1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF THIS
29 SUBSECTION, A PERSON WHO VIOLATES § 11-114(C) OF THIS SUBTITLE OR WHO
30 CONSPIRES TO VIOLATE § 11-114(B) OF THIS SUBTITLE IS GUILTY OF A FELONY AND
31 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 20 YEARS OR A
32 FINE NOT EXCEEDING \$10,000 OR BOTH.

1 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A PERSON
2 WHO HAD PROBABLE CAUSE TO BELIEVE THAT THE EXPLOSIVES INVOLVED WOULD
3 BE USED FOR A PURPOSE OTHER THAN THE VIOLATION OF:

4 (I) TITLE 3, SUBTITLE 3 OR SUBTITLE 5, TITLE 5, SUBTITLE 1,
5 SUBTITLE 2, SUBTITLE 3, OR SUBTITLE 4, § 6-602, § 7-402, OR § 12-1101 OF THIS
6 ARTICLE;

7 (II) TITLE 1, SUBTITLE 3, TITLE 3, SUBTITLE 7, OR § 4-123.1 OF THE
8 AGRICULTURE ARTICLE;

9 (III) TITLE 19, SUBTITLE 2 OR SUBTITLE 3 OF THE BUSINESS
10 REGULATION ARTICLE;

11 (IV) TITLE 14, SUBTITLE 29, § 11-810, § 14-1316, OR § 14-1317 OF THE
12 COMMERCIAL LAW ARTICLE;

13 (V) § 3-218, § 3-305(C)(2), § 3-409(A) OR (C), § 3-803(B), § 3-807(I), §
14 3-808(D), § 3-811(C), § 8-801, § 8-802, § 9-602(E), § 11-702(D)(8), § 11-703(D)(5)(III), §
15 11-706(B)(8), § 11-708(B)(8)(II), § 11-711(H)(2), § 11-712(C)(6)(II), § 11-714(C)(6), § 11-715(G)(2),
16 § 11-716(H)(2), § 11-723(B)(8), OR § 11-726 OF THE CORRECTIONAL SERVICES ARTICLE;

17 (VI) THE CRIMINAL LAW ARTICLE OTHER THAN TITLE 8, SUBTITLE 2,
18 PART II OR § 10-614;

19 (VII) TITLE 5, SUBTITLE 10A OF THE ENVIRONMENT ARTICLE;

20 (VIII) § 5-503 OF THE FAMILY LAW ARTICLE;

21 (IX) TITLE 20, SUBTITLE 7 OR § 21-259.1 OF THE HEALTH - GENERAL
22 ARTICLE;

23 (X) § 8-713.1, § 8-724.1, § 8-725.5, § 8-725.6, § 8-726.1, § 8-738.1, OR §
24 8-740.1 OF THE NATURAL RESOURCES ARTICLE;

25 (XI) § 14-127 OF THE REAL PROPERTY ARTICLE;

26 (XII) ARTICLE 2B, TITLE 22 OR § 18-104 OF THE CODE;

27 (XIII) ARTICLE 24, § 11-512, § 11-513, OR § 11-514 OF THE CODE;

28 (XIV) § 109 OF THE CODE OF PUBLIC LOCAL LAWS OF CAROLINE
29 COUNTY;

30 (XV) § 4-103 OF THE CODE OF PUBLIC LOCAL LAWS OF CARROLL
31 COUNTY;

32 (XVI) § 8A-1 OF THE CODE OF PUBLIC LOCAL LAWS OF TALBOT
33 COUNTY; OR

34 (XVII) FORMER ART. 27, §§ 268B, 268C, AND 268D.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 38A, §§ 34A and 34B.

3 Former Article 27 of the Code is repealed by the enactment of the Public
4 Safety Article. Prior to the repeal of Article 27, any remaining provisions
5 have been revised in this article or elsewhere in the Code. Therefore,
6 specific cross-references to provisions that formerly appeared in Article 27
7 are added to subsections (a)(2) and (b)(2) of this section. The Public Safety
8 Article Review Committee notes these changes for consideration by the
9 General Assembly. No substantive change is intended.

10 In subsections (a)(2)(i) and (b)(2)(i) of this section, the specific references to
11 provisions of the Public Safety Article are substituted for the former
12 reference to a "provision of Article 27 of the Code" for clarity.

13 In subsection (b)(1) of this section, the former reference to a person who
14 "aids or counsels ... or who commits any other act in furtherance of a
15 violation" is deleted as unnecessary due to the abrogation of accessory
16 before the fact liability. *See* CP § 4-204.

17 Defined terms: "Explosives" § 11-101

18 "Person" § 1-101

19 11-117. MERGER OF CONVICTIONS; PREEMPTION AMONG PENALTIES.

20 (A) MERGER OF CONVICTIONS.

21 IF A PERSON HAS BEEN CONVICTED OF A VIOLATION OF § 11-114(A) AND (B) OF
22 THIS SUBTITLE, OR OF A VIOLATION OF § 11-115(A) AND 11-114(B) OF THIS SUBTITLE,
23 AND THE CONVICTIONS ARISE OUT OF THE SAME TRANSACTION, THE CONVICTION
24 UNDER § 11-114(A) OR § 11-115(A) OF THIS SUBTITLE MERGES INTO THE CONVICTION
25 UNDER § 11-114(B) OF THIS SUBTITLE.

26 (B) PREEMPTION AMONG PENALTIES.

27 IF A PERSON HAS BEEN CONVICTED OF TWO OR MORE VIOLATIONS UNDER THIS
28 SUBTITLE AND HAS BEEN PENALIZED UNDER § 11-114(G), § 11-115(E), OR § 11-116 OF
29 THIS SUBTITLE FOR ONE VIOLATION, THE PERSON IS NOT SUBJECT TO AN
30 ADDITIONAL PENALTY UNDER § 11-116 OF THIS SUBTITLE.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 38A, § 34E.

33 In subsection (b) of this section, the former reference to "any penalty
34 and/or fine imposed pursuant to § 34B shall preempt the other penalties
35 and/or fines imposed pursuant to any other of such sections as a result of
36 such violation or violations except any penalty and/or fine imposed
37 pursuant to § 34A hereof" is deleted as obsolete in light of the revision of §
38 11-116 of this subtitle, which combines the identical penalty provisions of
39 former Art. 38A, §§ 34A and 34B. Subsection (b) of this section is revised to

1 prohibit explicitly the imposition of two or more penalties for any two or
2 more violations of this subtitle if the person has been penalized under §
3 11-116 of this subtitle for one of the violations.

4 Defined term: "Person" § 1-101

5 11-118. PROCEDURES FOR ACTION UNDER SUBTITLE.

6 IN AN ACTION UNDER THIS SUBTITLE:

7 (1) THE STATE NEED NOT DISPROVE ANY EXCEPTION, EXCUSE,
8 PROVISIO, OR EXEMPTION UNDER THIS SUBTITLE; AND

9 (2) THE BURDEN OF PROOF OF AN EXCEPTION, EXCUSE, PROVISIO, OR
10 EXEMPTION IS ON THE DEFENDANT OR THE HOLDER OF ANY ALLEGED SECURITY
11 INTEREST, AS THE CASE MAY BE.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 38A, § 34G.

14 In the introductory language of this section, the former references to any
15 "complaint, information, or indictment" and any "proceeding" are deleted
16 as included in the reference to an "action". *See* Maryland Rule 1-202(a),
17 which defines the term "action" to mean "collectively all the steps by which
18 a party seeks to enforce any right in a court or all the steps of a criminal
19 prosecution".

20 GENERAL REVISOR'S NOTE TO SUBTITLE:

21 Former Art. 38A, § 36, which provided for the severability of provisions in this
22 subtitle, is deleted as unnecessary in light of the general severability provision in Art.
23 1, § 23.

24 SUBTITLE 2. EXPLOSIVES ADVISORY COUNCIL.

25 11-201. DEFINITIONS.

26 (A) IN GENERAL.

27 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

28 REVISOR'S NOTE: This subsection formerly was Art. 88B, § 30A(a)(1).

29 The reference to this "subtitle" is substituted for the former reference to
30 this "section" to reflect the reorganization of former § 30A as a subtitle in
31 this revision.

32 No other changes are made.

33 (B) COUNCIL.

1 "COUNCIL" MEANS THE EXPLOSIVES ADVISORY COUNCIL.

2 REVISOR'S NOTE: This subsection is new language added to avoid repetition
3 of the full title "Explosives Advisory Council".

4 (C) DEPARTMENT.

5 "DEPARTMENT" MEANS THE DEPARTMENT OF STATE POLICE.

6 REVISOR'S NOTE: This subsection formerly was Art. 88B, § 30A(a)(2).

7 No changes are made.

8 (D) EXPLOSIVES.

9 (1) "EXPLOSIVES" MEANS CHEMICAL COMPOUNDS, MIXTURES, OR
10 DEVICES, THE PRIMARY PURPOSE OF WHICH IS TO FUNCTION BY EXPLOSION.

11 (2) "EXPLOSIVES" INCLUDES:

12 (I) DYNAMITE;

13 (II) OTHER HIGH EXPLOSIVES;

14 (III) BLACK POWDER;

15 (IV) PELLET POWDER;

16 (V) INITIATING EXPLOSIVES;

17 (VI) DETONATORS;

18 (VII) SAFETY FUSES;

19 (VIII) SQUIBS;

20 (IX) DETONATING CORD;

21 (X) IGNITER CORD; AND

22 (XI) IGNITERS.

23 REVISOR'S NOTE: This subsection formerly was Art. 88B, § 30A(a)(3).

24 The only changes are in style.

25 11-202. ESTABLISHED; STATUS.

26 (A) ESTABLISHED.

27 THERE IS AN EXPLOSIVES ADVISORY COUNCIL IN THE DEPARTMENT.

1 (B) STATUS.

2 THE COUNCIL IS INDEPENDENT OF THE DEPARTMENT, EXCEPT FOR STAFF
3 ASSISTANCE AND SUPPLIES THAT MAY BE PROVIDED BY THE DEPARTMENT TO THE
4 COUNCIL.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 88B, § 30A(b) and (f).

7 In subsection (b) of this section, the reference to assistance and supplies
8 "that may be" provided is substituted for the former reference to "limited"
9 assistance and supplies for clarity.

10 Defined terms: "Council" § 11-201

11 "Department" § 11-201

12 11-203. MEMBERSHIP.

13 (A) COMPOSITION; APPOINTMENT OF MEMBERS.

14 (1) THE COUNCIL CONSISTS OF 19 MEMBERS APPOINTED BY THE
15 GOVERNOR.

16 (2) OF THE 19 MEMBERS:

17 (I) FIVE MEMBERS SHALL BE APPOINTED FROM EXPLOSIVES USER
18 INDUSTRIES, WITH ONE MEMBER APPOINTED FROM EACH OF THE FOLLOWING
19 INDUSTRIES:

- 20 1. COAL MINING;
- 21 2. UTILITY CONSTRUCTION;
- 22 3. EXPLOSIVES DISTRIBUTION;
- 23 4. QUARRY OR AGGREGATE MINING; AND
- 24 5. HOME OR COMMERCIAL CONSTRUCTION;

25 (II) FIVE MEMBERS SHALL BE APPOINTED FROM EXPLOSIVES
26 REGULATORY UNITS, WITH ONE MEMBER APPOINTED FROM EACH OF THE
27 FOLLOWING UNITS:

- 28 1. DIVISION OF LABOR AND INDUSTRY OF THE DEPARTMENT
29 OF LABOR, LICENSING, AND REGULATION;
- 30 2. STATE FIRE MARSHAL;
- 31 3. STATE FIRE PREVENTION COMMISSION;

1 4. BUREAU OF MINES OF THE DEPARTMENT OF THE
2 ENVIRONMENT; AND

3 5. DEPARTMENT OF NATURAL RESOURCES;

4 (III) FIVE MEMBERS SHALL BE APPOINTED FROM THE PUBLIC, WITH
5 ONE MEMBER APPOINTED FROM EACH OF THE FOLLOWING GEOGRAPHIC REGIONS
6 OF THE STATE:

7 1. WESTERN;

8 2. CENTRAL;

9 3. METROPOLITAN, INCLUDING BALTIMORE AND
10 WASHINGTON, D.C.;

11 4. SOUTHERN; AND

12 5. EASTERN SHORE;

13 (IV) TWO MEMBERS SHALL BE APPOINTED FROM THE SCIENTIFIC
14 COMMUNITY, WITH ONE MEMBER APPOINTED FROM EACH OF THE FOLLOWING
15 AREAS OF SCIENTIFIC SPECIALIZATION:

16 1. VIBRATION TECHNOLOGY; AND

17 2. PYROTECHNICS; AND

18 (V) TWO MEMBERS SHALL BE EX OFFICIO MEMBERS, WHOM THE
19 GOVERNOR MAY CHOOSE FROM ADMINISTRATIVE UNITS OF THE STATE.

20 (B) TENURE; VACANCIES.

21 (1) THE TERM OF A MEMBER IS 5 YEARS.

22 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE
23 TERMS PROVIDED FOR MEMBERS OF THE COUNCIL ON OCTOBER 1, 2003.

24 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
25 SUCCESSOR IS APPOINTED AND QUALIFIES.

26 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
27 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
28 QUALIFIES.

29 (5) IF A VACANCY OCCURS, THE COUNCIL SHALL RECOMMEND A
30 REPLACEMENT TO THE GOVERNOR.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 88B, § 30A(c).

1 %In subsection (a)(1) of this section, the former reference to "not more than"
2 19 members is deleted as surplusage.

3 In subsection (a)(2)(ii) and (v) of this section, the reference to "units" is
4 substituted for the former reference to "agencies". *See* General Revisor's
5 Note to article.

6 In subsection (a)(2)(ii)4 of this section, the reference to the "Department of
7 the Environment" is added for clarity. *See* EN § 15-201.

8 In subsection (a)(2)(iv)1 of this section, the reference to vibration
9 "technology" is substituted for the former reference to a vibration
10 "technologist" for grammatical consistency. Similarly, in subsection
11 (a)(2)(iv)2 of this section, the reference to "pyrotechnics" is substituted for
12 the former reference to "[p]yrotechnic specialists".

13 In subsection (a)(2)(v) of this section, the former reference to "the
14 Governor's discretion" is deleted as redundant in light of the power of the
15 Governor to choose ex officio members from administrative units.

16 In subsection (b)(2) of this section, the reference to "October 1, 2003" is
17 substituted for the former obsolete reference to "July 1, 1984" to reflect the
18 effective date of this revision. This substitution is not intended to alter the
19 term of any member of the Board. *See* § ___ of Ch. ___, Acts of 2003.

20 Defined terms: "Council" § 11-201

21 "Explosives" § 11-201

22 11-204. OFFICERS.

23 THE GOVERNOR SHALL APPOINT A CHAIRMAN AND A VICE CHAIRMAN FROM
24 AMONG THE COUNCIL MEMBERS.

25 REVISOR'S NOTE: This section formerly was Art. 88B, § 30A(d).

26 The only changes are in style.

27 Defined term: "Council" § 11-201

28 11-205. MEETINGS; COMPENSATION; SUBGROUPS.

29 (A) MEETINGS.

30 THE COUNCIL SHALL MEET 6 TIMES A YEAR, OR AS NEEDED, AT THE TIMES AND
31 PLACES DETERMINED BY THE CHAIRMAN.

32 (B) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

33 A MEMBER OF THE COUNCIL:

1 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COUNCIL;
2 BUT

3 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
4 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

5 (C) SUBGROUPS.

6 THE CHAIRMAN MAY DIVIDE THE MEMBERS INTO SUBGROUPS OR COMMITTEES
7 AS NEEDED.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 88B, § 30A(e).

10 In subsections (a) and (c) of this section, the former reference to the
11 chairman "of the Council" is deleted as implicit.

12 In subsection (b)(1) of this section, the phrase "as a member of the Council"
13 is added to clarify that the prohibition on receipt of compensation is only
14 applicable to a member of the Council in the capacity of that individual as
15 a member.

16 Defined term: "Council" § 11-201

17 11-206. DUTIES.

18 THE COUNCIL SHALL:

19 (1) ADVISE, ASSIST, AND RECOMMEND TO THE DEPARTMENT
20 REGULATIONS FOR THE STORAGE, USE, MANUFACTURE, AND TRANSPORTATION OF
21 DESIGNATED EXPLOSIVES MATERIALS;

22 (2) CONTINUALLY REVIEW NEW DEVELOPMENTS IN THE EXPLOSIVES
23 INDUSTRY INCLUDING:

24 (I) SAFETY PRECAUTIONS FOR MANUFACTURERS, USERS, AND
25 DISTRIBUTORS;

26 (II) TECHNIQUES FOR BLASTING; AND

27 (III) FEDERAL REGULATION OF EXPLOSIVES;

28 (3) REVIEW ANY PROPOSED REGULATION OF THE DEPARTMENT THAT
29 AFFECTS THE MANUFACTURE, USE, OR DISTRIBUTION OF EXPLOSIVES;

30 (4) RECOMMEND TO THE DEPARTMENT REVISIONS OR ADDITIONS TO
31 STATE LAW THAT REGULATES ANY ASPECT OF THE MANUFACTURE, USE, OR
32 DISTRIBUTION OF EXPLOSIVES;

33 (5) CONDUCT FORUMS TO DISSEMINATE INFORMATION AND EDUCATE
34 THE PUBLIC ABOUT THE MANUFACTURE, USE, OR DISTRIBUTION OF EXPLOSIVES;

1 (6) SUBMIT AN ANNUAL REPORT TO THE GOVERNOR, SECRETARY OF
2 STATE POLICE, AND STATE FIRE MARSHAL; AND

3 (7) PERIODICALLY ASSESS THE PERFORMANCE AND SUFFICIENCY OF
4 THE COUNCIL AS NOW CONSTITUTED AND RECOMMEND CHANGES AS NECESSARY.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 88B, § 30A(g).

7 In items (1) and (3) of this section, the former reference to "rule[s]" is
8 deleted as included in the reference to "regulation[s]". *See* General
9 Revisor's Note to article.

10 Defined terms: "Council" § 11-201

11 "Department" § 11-201

12 "Explosives" § 11-201

13 TITLE 12. BUILDING AND MATERIAL CODES; OTHER SAFETY PROVISIONS.

14 SUBTITLE 1. GENERAL PROVISIONS.

15 12-101. ADMINISTRATIVE SEARCH WARRANTS.

16 (A) SCOPE OF SECTION.

17 THIS SECTION APPLIES ONLY TO INSPECTIONS UNDER § 12-909 AND SUBTITLE
18 8, PART II OF THIS TITLE.

19 (B) APPLICATION.

20 AN INSPECTOR OF THE DIVISION OF LABOR AND INDUSTRY MAY APPLY TO THE
21 DISTRICT COURT FOR AN ADMINISTRATIVE SEARCH WARRANT UNDER THIS SECTION
22 IF THE INSPECTOR:

23 (1) IS AUTHORIZED OR REQUIRED BY LAW TO INSPECT PROPERTY IN
24 THE STATE; AND

25 (2) IS DENIED ACCESS TO THE PROPERTY AFTER MAKING A PROPER
26 REQUEST FOR ACCESS OF THE OWNER, LESSEE, OR OTHER PERSON IN CHARGE OF
27 THE PROPERTY.

28 (C) ISSUANCE.

29 A JUDGE MAY ISSUE AN ADMINISTRATIVE SEARCH WARRANT UNDER THIS
30 SECTION IF THE APPLICATION:

31 (1) SPECIFIES THE NATURE, SCOPE, AND PURPOSE OF THE INSPECTION;
32 AND

33 (2) SHOWS THAT:

1 (I) THE APPLICANT IS AUTHORIZED OR REQUIRED BY LAW TO
2 INSPECT THE PROPERTY;

3 (II) THE APPLICANT WAS DENIED ACCESS TO THE PROPERTY
4 AFTER MAKING A PROPER REQUEST FOR ACCESS AT A REASONABLE TIME;

5 (III) THE APPLICATION IS APPROVED BY THE ATTORNEY GENERAL;
6 AND

7 (IV) THE INSPECTION IS SOUGHT FOR SAFETY OR HEALTH RELATED
8 PURPOSES.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 89, § 2A.

11 In subsection (a) of this section, the reference to inspections "under"
12 certain provisions is substituted for the former reference to inspections
13 "sought pursuant to the following" for brevity.

14 Also in subsection (a) of this section, the former reference to "[s]ection
15 3-402 of the Business Regulation Article relating to amusement attraction
16 safety" is deleted in light of § 3-205 of the Business Regulation Article to
17 the same effect.

18 In the introductory language of subsection (b) of this section, the former
19 reference to an "investigator" is deleted because this section applies only to
20 inspections and not investigations.

21 Also in the introductory language of subsection (b) of this section, the
22 former phrase "under the following conditions" is deleted as surplusage.

23 In subsections (b)(1) and (2) and (c)(2)(ii) of this section, the former
24 reference to "premises" is deleted as included in the reference to
25 "property".

26 In subsection (b)(2) of this section, the former reference to "seek[ing] access
27 to such premises or property for the purpose of making an inspection" is
28 deleted as implicit in the reference to "making a proper request for access".

29 Also in subsection (b)(2) of this section, the former reference to a "tenant"
30 is deleted as synonymous with the reference to a "lessee".

31 In the introductory language of subsection (c) of this section, the former
32 reference to a judge "of the District Court" is deleted as implicit in the
33 reference in subsection (b) of this section to an application made to the
34 District Court.

35 Defined term: "Person" § 1-101

1 SUBTITLE 2. STATEWIDE BUILDING AND HOUSING CODES.

2 12-201. MODEL PERFORMANCE CODE FOR BUILDING CONSTRUCTION.

3 (A) DEFINITIONS.

4 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.

6 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF HOUSING AND
7 COMMUNITY DEVELOPMENT.

8 (3) "INDUSTRIALIZED BUILDING" HAS THE MEANING STATED IN § 12-301
9 OF THIS TITLE.

10 (B) LEGISLATIVE FINDINGS.

11 THE GENERAL ASSEMBLY FINDS THAT:

12 (1) THE POTENTIAL BENEFITS OF NEW MATERIALS AND TECHNIQUES
13 FOR BUILDING CONSTRUCTION ARE NOT READILY AVAILABLE TO THE STATE PARTLY
14 BECAUSE EXISTING BUILDING CODES PRECLUDE THEIR USE; AND

15 (2) SEVERAL SUBDIVISIONS IN THE STATE HAVE NO BUILDING CODES
16 OF ANY TYPE TO PROTECT THE PUBLIC AGAINST UNSAFE, UNSOUND, OR
17 UNSANITARY BUILDINGS IN THEIR COMMUNITIES AND THIS MEASURE OF
18 PROTECTION SHOULD BE PROVIDED TO THESE COMMUNITIES.

19 (C) AUTHORIZED.

20 THE DEPARTMENT MAY ADOPT A MODEL PERFORMANCE CODE FOR BUILDING
21 CONSTRUCTION IN THE STATE.

22 (D) NOT BINDING IN SUBDIVISION UNLESS SPECIFICALLY ADOPTED.

23 THE MODEL PERFORMANCE CODE FOR BUILDING CONSTRUCTION IS NOT
24 BINDING IN A SUBDIVISION OF THE STATE UNLESS THE SUBDIVISION SPECIFICALLY
25 ADOPTS IT.

26 (E) CONTENTS.

27 (1) THE MODEL PERFORMANCE CODE FOR BUILDING CONSTRUCTION
28 SHALL COVER ELEMENTS APPROPRIATE TO ENSURE SAFE AND SOUND
29 CONSTRUCTION, INCLUDING PLUMBING, STRUCTURE, AND ELECTRICAL SYSTEMS.

30 (2) ANY PART OF THE MODEL PERFORMANCE CODE THAT RELATES TO
31 STRUCTURE SHALL INCORPORATE BY REFERENCE THE MARYLAND BUILDING
32 PERFORMANCE STANDARDS ESTABLISHED UNDER SUBTITLE 5 OF THIS TITLE.

33 (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
34 PARAGRAPH, ANY PART OF THE MODEL PERFORMANCE CODE THAT RELATES TO

1 PLUMBING SHALL BE CONSISTENT WITH THE STATE PLUMBING CODE CURRENTLY
2 IN EFFECT UNDER THE MARYLAND PLUMBING ACT.

3 (II) SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT APPLY TO
4 INDUSTRIALIZED BUILDINGS.

5 (4) THE MODEL PERFORMANCE CODE SHALL ALSO INCLUDE ELEMENTS
6 THAT PROMOTE THE EFFICIENT UTILIZATION OF ENERGY RESOURCES.

7 (5) THE MODEL PERFORMANCE CODE SHALL BE FRAMED IN TERMS OF
8 THE PURPOSES FOR WHICH BUILDING CODES ARE ENACTED INSTEAD OF THE
9 SPECIFICATIONS OF MATERIALS AND METHODS REQUIRED TO ACHIEVE THE GOALS.

10 (F) DUTIES OF DEPARTMENT.

11 (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ESTABLISH
12 STANDARDS FOR INDUSTRIALIZED BUILDINGS.

13 (2) AFTER PUBLIC HEARING, THE DEPARTMENT SHALL ADOPT
14 REGULATIONS TO PROHIBIT A JURISDICTION IN WHICH THE MODEL PERFORMANCE
15 CODE IS APPLICABLE FROM ALTERING OR MODIFYING THE MODEL PERFORMANCE
16 CODE WITHOUT THE APPROVAL OF THE DEPARTMENT.

17 (3) THE DEPARTMENT SHALL PROVIDE AN APPEAL PROCEDURE FOR
18 CHALLENGES TO THE INTERPRETATION OR APPLICATION OF THE MODEL
19 PERFORMANCE CODE.

20 (4) THE DEPARTMENT SHALL:

21 (I) CONSULT REGULARLY WITH LOCAL OFFICIALS TO REVIEW THE
22 APPLICATION AND EFFECTIVENESS OF THE MODEL PERFORMANCE CODE IN EACH
23 JURISDICTION; AND

24 (II) REVIEW RECOMMENDATIONS FROM LOCAL OFFICIALS FOR
25 CHANGES, MODIFICATIONS, OR EXCEPTIONS TO INCREASE THE EFFECTIVENESS AND
26 USEFULNESS OF THE MODEL PERFORMANCE CODE IN THOSE JURISDICTIONS.

27 (5) THE DEPARTMENT SHALL TRAIN AND CERTIFY BUILDING CODE
28 ENFORCEMENT OFFICIALS IN EACH JURISDICTION WHERE THE MODEL
29 PERFORMANCE CODE IS IN EFFECT.

30 (G) REQUESTS FOR SPECIAL PROVISIONS.

31 THE DEPARTMENT MAY NOT UNREASONABLY WITHHOLD APPROVAL OF
32 REQUESTS FOR SPECIAL PROVISIONS IN THE MODEL PERFORMANCE CODE TO MEET
33 LOCAL CONDITIONS.

34 REVISOR'S NOTE: Subsection (a)(1) of this section is new language added as
35 the standard introductory language to a definition subsection.

36 Subsection (a)(2) of this section is new language added to avoid repetition

1 of the full title of the "Department of Housing and Community
2 Development".

3 Subsections (a)(3) and (b) through (g) of this section are new language
4 derived without substantive change from former Art. 83B, § 6-101.

5 In subsection (b)(1) of this section, the former reference to existing building
6 codes being "so written as to" preclude their use is deleted as surplusage.

7 In subsection (b)(2) of this section, the reference to the finding that several
8 subdivisions have no building codes to protect "the public" is substituted
9 for the former reference to building codes to protect "their citizens" for
10 clarity and accuracy. Subdivisions of the State do not have citizens; rather,
11 they have residents. However, this provision is broadly drafted and would
12 seem to be intended to cover anyone living in the community, *i.e.*, the
13 public, not just "residents" of the community or subdivision.

14 Also in subsection (b)(2) of this section, the former reference to the
15 "intrusion" of unsafe, unsound, or unsanitary buildings is deleted as
16 surplusage.

17 In subsection (c) of this section, the authority to "adopt" a Model
18 Performance Code is substituted for the former authority to "prepare and
19 issue" a Model Performance Code for brevity and consistency with
20 language used in other revised articles. The Department has adopted a
21 Model Performance Code for building construction in COMAR 05.02.01.02.

22 In subsection (d) of this section, the former reference to the Model
23 Performance Code "authorized by this section" is deleted as surplusage.
24 Similarly, in subsection (e)(1) of this section, the former reference to the
25 Model Performance Code "which the Department is authorized to issue" is
26 deleted as surplusage.

27 In subsection (e)(5) of this section, the reference to the purposes for which
28 building codes are "enacted" is substituted for the former reference to the
29 purposes for which they are "drawn" for clarity.

30 In subsection (f)(2) of this section, the reference to the "approval" of the
31 Department is substituted for the former reference to "concurrence" of the
32 Department to use a more precise term. Consequently, in subsection (g) of
33 this section, the reference to "approval" of requests is substituted for the
34 former reference to "[c]oncurrence" for consistency.

35 Also in subsection (f)(2) of this section, the former reference to "rules" is
36 deleted as included in the reference to "regulations". *See* General Revisor's
37 Note to article.

38 In subsection (f)(4)(ii) of this section, the reference to "those jurisdictions"
39 is substituted for the former reference to "a given subdivision, or
40 subdivisions" for brevity and consistency with subsection (f)(4)(i) of this

1 section.

2 In subsection (f)(5) of this section, the requirement that the Department
3 "shall train and certify" building code enforcement officials is substituted
4 for the former requirement to "assume the responsibility to train and
5 certify" them for consistency with language used in other revised articles
6 to state a duty or responsibility.

7 12-202. MARYLAND ACCESSIBILITY CODE.

8 (A) "DEPARTMENT" DEFINED.

9 IN THIS SECTION, "DEPARTMENT" MEANS THE DEPARTMENT OF HOUSING AND
10 COMMUNITY DEVELOPMENT.

11 (B) ADOPTION.

12 (1) THE DEPARTMENT SHALL ADOPT BY REGULATION A STATE
13 BUILDING CODE TO MAKE BUILDINGS AND FACILITIES ACCESSIBLE AND USABLE BY
14 INDIVIDUALS WITH PHYSICAL DISABILITIES TO THE EXTENT FEASIBLE.

15 (2) THE REGULATIONS SHALL BE DEVELOPED IN CONJUNCTION WITH:

16 (I) THE GOVERNOR'S COMMITTEE ON EMPLOYMENT OF PEOPLE
17 WITH DISABILITIES;

18 (II) THE MARYLAND REHABILITATION ASSOCIATION; AND

19 (III) THE MARYLAND SOCIETY OF ARCHITECTS.

20 (C) ENFORCEMENT.

21 THE MARYLAND ACCESSIBILITY CODE SHALL BE ENFORCED BY LOCAL
22 JURISDICTIONS OR ANY OTHER GOVERNMENTAL UNITS WITH AUTHORITY OVER
23 BUILDINGS OR FACILITIES.

24 (D) INTERPRETATION; WAIVERS.

25 THE DEPARTMENT:

26 (1) SHALL DECIDE QUESTIONS OF INTERPRETATION OF THE MARYLAND
27 ACCESSIBILITY CODE; AND

28 (2) MAY AUTHORIZE WAIVERS OR EXEMPTIONS UNDER THE MARYLAND
29 ACCESSIBILITY CODE.

30 (E) INVESTIGATION BY DEPARTMENT.

31 IN ADDITION TO ANY OTHER PENALTY FOR A VIOLATION OF THE MARYLAND
32 ACCESSIBILITY CODE, THE DEPARTMENT SHALL INVESTIGATE TO DETERMINE IF A
33 VIOLATION EXISTS.

1 (F) ACTION BY DEPARTMENT.

2 (1) IF THE DEPARTMENT DETERMINES THAT A VIOLATION OF THE
3 MARYLAND ACCESSIBILITY CODE EXISTS, THE DEPARTMENT MAY RESOLVE ANY
4 ISSUE RELATED TO THE VIOLATION BY MEDIATION AND CONCILIATION.

5 (2) IN ADDITION, THE DEPARTMENT MAY BRING AN ACTION FOR
6 EQUITABLE OR OTHER APPROPRIATE RELIEF IN A COURT IN THE JURISDICTION IN
7 WHICH THE VIOLATION OCCURRED, INCLUDING AN ACTION TO ENJOIN THE
8 CONSTRUCTION, RENOVATION, OR OCCUPANCY OF A BUILDING OR FACILITY THAT
9 VIOLATES THE MARYLAND ACCESSIBILITY CODE.

10 (3) NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, THE
11 DEPARTMENT MAY NOT SEEK AN INJUNCTION UNTIL 5 WORKING DAYS AFTER THE
12 DEPARTMENT HAS SOUGHT TO RESOLVE THE VIOLATION THROUGH MEDIATION AND
13 CONCILIATION.

14 (G) PROSECUTION BY ATTORNEY GENERAL.

15 THE ATTORNEY GENERAL MAY PROSECUTE CIVIL CASES THAT ARISE UNDER
16 THIS SECTION THAT ARE REFERRED TO THE ATTORNEY GENERAL BY THE
17 DEPARTMENT.

18 (H) COOPERATION WITH HUMAN RELATIONS COMMISSION.

19 (1) THE DEPARTMENT SHALL COOPERATE WITH AND PROVIDE
20 TECHNICAL ASSISTANCE TO THE HUMAN RELATIONS COMMISSION CONCERNING AN
21 ACTION BROUGHT BY THE HUMAN RELATIONS COMMISSION TO ENFORCE ARTICLE
22 49B, § 22 OF THE CODE.

23 (2) THIS SECTION DOES NOT LIMIT THE AUTHORITY OF THE HUMAN
24 RELATIONS COMMISSION TO ENFORCE ARTICLE 49B, § 22 OF THE CODE.

25 (I) VIOLATION OF MARYLAND ACCESSIBILITY CODE PROHIBITED; PENALTIES.

26 (1) A PERSON MAY NOT WILLFULLY VIOLATE THE MARYLAND
27 ACCESSIBILITY CODE.

28 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
29 MISDEMEANOR AND ON CONVICTION IS SUBJECT FOR EACH VIOLATION TO
30 IMPRISONMENT NOT EXCEEDING 3 MONTHS OR A FINE NOT EXCEEDING \$500 FOR
31 EACH DAY THE VIOLATION EXISTS OR BOTH.

32 (3) A PENALTY IMPOSED UNDER THIS SUBSECTION IS IN ADDITION TO
33 AND NOT A SUBSTITUTE FOR ANY OTHER PENALTY IMPOSED UNDER FEDERAL,
34 STATE, OR LOCAL LAW.

35 REVISOR'S NOTE: Subsection (a) of this section is new language added to
36 avoid repetition of the full title of the "Department of Housing and
37 Community Development".

- 1 %Subsections (b) through (i) of this section are new language derived
2 without substantive change from former Art. 83B, § 6-102.
- 3 In subsection (b)(1) of this section, the former reference to "an appropriate
4 division of the Department" is deleted for brevity because divisions of the
5 Department are included in the general reference to the "Department".
- 6 Also in subsection (b)(1) of this section, the former phrase "for the purpose
7 of developing rules and regulations" is deleted for clarity and brevity.
- 8 In the introductory language of subsection (b)(2) of this section, the former
9 reference to "rules" is deleted as included in the reference to "regulations".
10 *See* General Revisor's Note to article.
- 11 In subsection (b)(2)(i) of this section, the reference to the "Governor's
12 Committee on Employment of People with Disabilities" is substituted for
13 the former reference to the "Governor's Committee for Employment of the
14 Handicapped" to reflect the current name of the committee.
- 15 In subsection (c) of this section, the reference to the "Maryland
16 Accessibility Code" is substituted for the former reference to the "Code" for
17 clarity and consistency throughout this section. Similarly, in subsection
18 (d)(1) and (2) of this section, the reference to the "Maryland Accessibility
19 Code" is substituted for the former reference to the "Disability Code".
20 Similarly, in subsection (e) of this section, the reference to the "Maryland
21 Accessibility Code" is substituted for the former reference to the "State
22 building code for the handicapped". Similarly, in subsections (f)(2) and
23 (i)(1) of this section, the reference to the "Maryland Accessibility Code" is
24 substituted for the former reference to the "Maryland Building Code for
25 the Handicapped".
- 26 Also in subsection (c) of this section, the reference to "governmental units"
27 is substituted for the former reference to "public agencies" for consistency
28 with similar provisions in this and other revised articles of the Code.
- 29 In subsections (e), (f)(1), (2), and (3), and (g) of this section, the reference to
30 the "Department" is substituted for the former reference to the "Secretary"
31 for consistency throughout this section and this subtitle.
- 32 In subsection (f)(1) of this section, the reference to a violation of the
33 "Maryland Accessibility Code" is added for clarity.

34 Defined term: "Person" § 1-101

35 12-203. MINIMUM LIVABILITY CODE.

36 (A) "DEPARTMENT" DEFINED.

37 IN THIS SECTION, "DEPARTMENT" MEANS THE DEPARTMENT OF HOUSING AND
38 COMMUNITY DEVELOPMENT.

1 (B) LOCAL HOUSING CODE REQUIRED.

2 EACH POLITICAL SUBDIVISION SHALL ADOPT BY REGULATION A LOCAL
3 HOUSING CODE THAT SETS MINIMUM PROPERTY MAINTENANCE STANDARDS FOR
4 HOUSING IN THE SUBDIVISION.

5 (C) MINIMUM LIVABILITY CODE REQUIRED.

6 THE DEPARTMENT SHALL ADOPT BY REGULATION A MINIMUM LIVABILITY
7 CODE.

8 (D) APPLICABILITY OF MINIMUM LIVABILITY CODE.

9 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
10 MINIMUM LIVABILITY CODE APPLIES TO RESIDENTIAL STRUCTURES USED FOR
11 HUMAN HABITATION.

12 (2) THE MINIMUM LIVABILITY CODE DOES NOT APPLY TO:

13 (I) AN OWNER-OCCUPIED HOUSING UNIT;

14 (II) ANY HOUSING IN A POLITICAL SUBDIVISION THAT HAS
15 ADOPTED A LOCAL HOUSING CODE THAT SUBSTANTIALLY CONFORMS TO THE
16 MINIMUM LIVABILITY CODE; OR

17 (III) ANY HOUSING EXEMPTED BY THE DEPARTMENT.

18 (E) CONTENTS OF MINIMUM LIVABILITY CODE.

19 THE MINIMUM LIVABILITY CODE SHALL:

20 (1) SET MINIMUM PROPERTY STANDARDS FOR HOUSING IN THE STATE;

21 (2) ALLOW FOR EXCEPTIONS AND VARIATIONS BETWEEN POLITICAL
22 SUBDIVISIONS:

23 (I) TO REFLECT GEOGRAPHIC DIFFERENCES; OR

24 (II) IF THE DEPARTMENT DETERMINES THAT UNIQUE LOCAL
25 CONDITIONS JUSTIFY EXCEPTIONS OR VARIATIONS RECOMMENDED BY POLITICAL
26 SUBDIVISIONS; AND

27 (3) INCLUDE MINIMUM STANDARDS FOR:

28 (I) BASIC EQUIPMENT AND FACILITIES USED FOR LIGHT,
29 VENTILATION, HEAT, AND SANITATION; AND

30 (II) SAFE AND SANITARY MAINTENANCE OF RESIDENTIAL
31 STRUCTURES AND PREMISES.

32 (F) ENFORCEMENT.

1 (1) THE POLITICAL SUBDIVISION IN WHICH THE HOUSING IS LOCATED
2 SHALL ENFORCE THE MINIMUM LIVABILITY CODE.

3 (2) UNLESS ALTERNATIVE HOUSING IS PROVIDED, AN INDIVIDUAL MAY
4 NOT BE DISPLACED BY ENFORCEMENT OF THE MINIMUM LIVABILITY CODE.

5 (3) A POLITICAL SUBDIVISION MAY CHARGE A PROPERTY OWNER A FEE
6 FOR AN INSPECTION MADE TO ENFORCE THE MINIMUM LIVABILITY CODE.

7 (G) WAIVER OF APPLICABILITY BY POLITICAL SUBDIVISION.

8 (1) ON APPLICATION OF THE PROPERTY OWNER, A POLITICAL
9 SUBDIVISION MAY WAIVE THE APPLICABILITY OF THE MINIMUM LIVABILITY CODE
10 TO A UNIT OF RENTAL HOUSING IF:

11 (I) EACH TENANT OF THE UNIT IS GIVEN ADEQUATE NOTICE IN
12 THE FORM AND MANNER SPECIFIED BY THE POLITICAL SUBDIVISION;

13 (II) EACH TENANT IS GIVEN AN OPPORTUNITY TO COMMENT ON
14 THE APPLICATION IN WRITING OR IN PERSON; AND

15 (III) THE WAIVER WOULD NOT THREATEN THE HEALTH OR SAFETY
16 OF ANY TENANT.

17 (2) A POLITICAL SUBDIVISION MAY WAIVE APPLICABILITY OF THE
18 MINIMUM LIVABILITY CODE IF THE WAIVER IS GRANTED ON THE BASIS OF THE
19 RELIGIOUS PRACTICES OF THE TENANT OF A UNIT OF RENTAL HOUSING.

20 (H) INTERPRETATION AND WAIVER BY DEPARTMENT.

21 THE DEPARTMENT:

22 (1) SHALL DECIDE QUESTIONS OF INTERPRETATION OF THE MINIMUM
23 LIVABILITY CODE, INCLUDING QUESTIONS THAT RELATE TO UNIFORM
24 ENFORCEMENT BY POLITICAL SUBDIVISIONS; AND

25 (2) MAY AUTHORIZE WAIVERS OR EXEMPTIONS UNDER THE MINIMUM
26 LIVABILITY CODE.

27 (I) GRANTS AND TECHNICAL ASSISTANCE.

28 (1) THE DEPARTMENT MAY PROVIDE MATCHING GRANTS AND
29 TECHNICAL ASSISTANCE TO POLITICAL SUBDIVISIONS TO IMPLEMENT THE
30 MINIMUM LIVABILITY CODE.

31 (2) THE MATCHING GRANTS SHALL BE ALLOCATED USING A FORMULA
32 DEVELOPED BY THE DEPARTMENT TO TAKE INTO ACCOUNT POPULATION AND
33 OTHER RELEVANT FACTORS.

34 (3) THE DEPARTMENT MAY WAIVE THE REQUIREMENT OF A MATCH IF
35 ADEQUATE LOCAL MONEY IS NOT AVAILABLE.

1 (J) VIOLATION OF MINIMUM LIVABILITY CODE PROHIBITED; PENALTIES.

2 (1) A PROPERTY OWNER MAY NOT WILLFULLY VIOLATE THE MINIMUM
3 LIVABILITY CODE.

4 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
5 MISDEMEANOR AND ON CONVICTION IS SUBJECT FOR EACH VIOLATION TO
6 IMPRISONMENT NOT EXCEEDING 3 MONTHS OR A FINE NOT EXCEEDING \$500 FOR
7 EACH DAY THE VIOLATION EXISTS OR BOTH.

8 (3) A PENALTY IMPOSED UNDER THIS SUBSECTION IS IN ADDITION TO
9 AND NOT A SUBSTITUTE FOR ANY OTHER PENALTY AUTHORIZED UNDER FEDERAL,
10 STATE, OR LOCAL LAW.

11 REVISOR'S NOTE: Subsection (a) of this section is new language added to
12 avoid repetition of the full title of the "Department of Housing and
13 Community Development".

14 Subsections (b) through (j) of this section are new language derived
15 without substantive change from former Art. 83B, § 6-103.

16 Throughout this section, the reference to a "political subdivision" is
17 substituted for the former references to "local political subdivision",
18 "subdivision", and "local subdivision" for clarity and consistency.

19 In subsections (c), (e)(2)(ii), and (i)(2) and (3) of this section, the reference
20 to the "Department" is substituted for the former reference to the
21 "Secretary" for consistency throughout this section and this subtitle.

22 In subsection (d)(1) of this section, the reference to the "Minimum
23 Livability Code" is substituted for the former reference to the "livability
24 code" for clarity and consistency throughout this section. Similarly, in
25 subsection (d)(2)(ii) of this section, the reference to the "Minimum
26 Livability Code" is substituted for the former reference to the "statewide
27 livability code". Similarly, in subsection (j)(1) of this section, the reference
28 to the "Minimum Livability Code" is substituted for the former reference to
29 the "housing livability code adopted under subsection (a) of this section".

30 In subsection (d)(2)(ii) of this section, the former phrase "containing
31 provisions" that substantially conform to the Minimum Livability Code is
32 deleted as surplusage.

33 In subsection (f)(2) of this section, the reference to "alternative" housing is
34 substituted for the former reference to "alternate" housing to use a more
35 precise word.

36 Also in subsection (f)(2) of this section, the reference to an "individual" is
37 substituted for the former reference to a "person" because only a human
38 being, and not the other kinds of entities included in the defined term
39 "person", are subject to displacement under this section.

1 %In subsection (g)(2) of this section, the reference to a "tenant" of a unit of
2 rental housing is substituted for the former reference to an "occupant" for
3 consistency with subsection (g)(1) of this section.

4 In subsection (i)(3) of this section, the reference to local "money" is
5 substituted for the former reference to local "resources" for consistency
6 with terminology used throughout this article.

7 Defined term: "Person" § 1-101

8 12-204. GUIDELINES FOR ILLUMINATION LEVELS IN PUBLIC BUILDINGS.

9 (A) DEFINITIONS.

10 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

12 (2) "ASHRAE" MEANS THE AMERICAN SOCIETY OF HEATING,
13 REFRIGERATING, AND AIR CONDITIONING ENGINEERS.

14 (3) "GUIDELINES" MEANS THE GUIDELINES FOR RECOMMENDED
15 ILLUMINATION LEVELS IN EXISTING PUBLIC BUILDINGS.

16 (4) "PUBLIC BUILDING" MEANS A BUILDING OWNED BY THE STATE, A
17 COUNTY, OR MUNICIPAL CORPORATION OR A UNIT OF THE STATE, A COUNTY, OR
18 MUNICIPAL CORPORATION.

19 (B) SCOPE OF SECTION.

20 THIS SECTION APPLIES TO EACH PUBLIC BUILDING THAT IS 10,000 OR MORE
21 SQUARE FEET IN AREA PER FLOOR.

22 (C) ADOPTION OF GUIDELINES.

23 IN CONJUNCTION WITH THE DEPARTMENT OF NATURAL RESOURCES, THE
24 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT SHALL DEVELOP
25 GUIDELINES FOR RECOMMENDED ILLUMINATION LEVELS IN EXISTING PUBLIC
26 BUILDINGS IN THE STATE 6 MONTHS AFTER ASHRAE 100 STANDARDS ARE ADOPTED.

27 (D) PUBLICATION OF GUIDELINES.

28 AFTER APPROVAL BY THE JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE,
29 AND LEGISLATIVE REVIEW, THE GUIDELINES SHALL BE PUBLISHED IN THE
30 MARYLAND REGISTER AND OTHER APPROPRIATE MEDIA TO:

31 (1) ENCOURAGE USE OF THE GUIDELINES; AND

32 (2) PROVIDE STANDARDS IN ACCORDANCE WITH WHICH OWNERS,
33 OPERATORS, OR BOTH OF EXISTING PUBLIC BUILDINGS, INCLUDING LOCAL
34 GOVERNMENTS, THE DEPARTMENT OF GENERAL SERVICES, AND OTHER

1 GOVERNMENTAL UNITS THAT MANAGE STATE BUILDINGS, MAY TARGET THEIR
2 ENERGY CONSERVATION EFFORT WITH REGARD TO ILLUMINATION.

3 (E) TRAINING OF LOCAL JURISDICTIONS.

4 (1) IN CONJUNCTION WITH THE DEPARTMENT OF NATURAL
5 RESOURCES, THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
6 SHALL PROVIDE TRAINING TO LOCAL JURISDICTIONS ON THE APPLICATION OF THE
7 GUIDELINES.

8 (2) THE TRAINING MAY INCLUDE A PROGRAM DEVELOPED BY A
9 FEDERAL AGENCY OR A CONTRACT AGENT.

10 (F) ASSISTANCE TO LOCAL JURISDICTIONS.

11 THE DEPARTMENT OF NATURAL RESOURCES SHALL ASSIST LOCAL
12 JURISDICTIONS TO:

13 (1) DETERMINE THE COST-BENEFIT IMPACTS OF IMPLEMENTING THE
14 GUIDELINES; AND

15 (2) PERFORM AUDITS OF SPECIFIC BUILDINGS OR INSTALLATIONS TO
16 DETERMINE LIGHTING PERFORMANCE CHARACTERISTICS AND THE SAVINGS
17 POSSIBLE THROUGH IMPLEMENTING THE GUIDELINES.

18 (G) ADVISORY COMMISSION.

19 (1) THERE IS AN ADVISORY COMMISSION ON ENERGY CONSERVATION IN
20 BUILDINGS.

21 (2) THE COMMISSION CONSISTS OF 15 MEMBERS APPOINTED BY THE
22 SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT.

23 (3) THE MEMBERS SHALL BE BROADLY REPRESENTATIVE, INCLUDING
24 REPRESENTATIVES FROM:

25 (I) STATE AND LOCAL CODE ENFORCEMENT AGENCIES;

26 (II) ARCHITECTURAL AND ENGINEERING PROFESSIONS;

27 (III) PUBLIC UTILITIES;

28 (IV) THE CONSTRUCTION INDUSTRY;

29 (V) LEGISLATIVE BODIES OF LOCAL GOVERNMENT; AND

30 (VI) THE PUBLIC.

31 (4) A MEMBER OF THE COMMISSION:

1 (I) MAY NOT RECEIVE COMPENSATION FOR SERVICE ON THE
2 COMMISSION; BUT

3 (II) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
4 STANDARD STATE TRAVEL REGULATIONS AS PROVIDED IN THE STATE BUDGET.

5 REVISOR'S NOTE: Subsections (a)(1), (2), and (4), and (b) through (g) of this
6 section are new language derived without substantive change from former
7 Art. 83B, § 6-104.

8 Subsection (a)(3) of this section is new language added to avoid repetition
9 of the full reference to the "guidelines for recommended illumination levels
10 in existing public buildings".

11 In subsection (b) of this section, the former reference to public buildings "as
12 defined" is deleted because the term is presumed to be used as defined.

13 In subsection (g)(3)(vi) of this section, the former reference to the "general"
14 public is deleted as implicit in the reference to the "public" and for
15 consistency with terminology used throughout this article.

16 The Public Safety Article Review Committee notes, for consideration by the
17 General Assembly, the guidelines required by this section have never been
18 developed and the advisory committee on energy conservation was never
19 appointed.

20 Defined term: "County" § 1-101

21 SUBTITLE 3. INDUSTRIALIZED BUILDINGS AND MANUFACTURED HOMES.

22 12-301. DEFINITIONS.

23 (A) IN GENERAL.

24 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

25 REVISOR'S NOTE: This subsection is new language added as the standard
26 introductory language to a definition section.

27 (B) DEPARTMENT.

28 "DEPARTMENT" MEANS THE DEPARTMENT OF HOUSING AND COMMUNITY
29 DEVELOPMENT.

30 REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-202(b).

31 No changes are made.

32 (C) FIRST USER.

1 (1) "FIRST USER" MEANS A PERSON WHO INITIALLY INSTALLS AN
2 INDUSTRIALIZED BUILDING OR MANUFACTURED HOME IN THE STATE.

3 (2) "FIRST USER" DOES NOT INCLUDE A PERSON WHO SUBSEQUENTLY
4 BUYS A BUILDING THAT CONSISTS WHOLLY OR PARTLY OF AN INDUSTRIALIZED
5 BUILDING.

6 REVISOR'S NOTE: This subsection is new language derived without
7 substantive change from former Art. 83B, § 6-202(c).

8 In paragraph (1) of this subsection, the references to an "industrialized
9 building" and a "manufactured home" are substituted for the former
10 reference to "factory-built buildings" for clarity. The types of factory-built
11 buildings covered by this subtitle are industrialized buildings and
12 manufactured homes.

13 Also in paragraph (1) of this subsection, the former references to a "firm"
14 and a "corporation" are deleted as included in the defined term "person".
15 *See* § 1-101 of this article.

16 Defined terms: "Industrialized building" § 12-301

17 "Install" § 12-301

18 "Manufactured home" § 12-301

19 "Person" § 1-101

20 (D) INDUSTRIALIZED BUILDING.

21 (1) "INDUSTRIALIZED BUILDING" MEANS A BUILDING ASSEMBLY OR
22 SYSTEM OF BUILDING SUBASSEMBLIES MANUFACTURED IN ITS ENTIRETY, OR IN
23 SUBSTANTIAL PART, OFF SITE AND TRANSPORTED TO A SITE FOR INSTALLATION OR
24 ERECTION, WITH OR WITHOUT OTHER SPECIFIED COMPONENTS, AS A FINISHED
25 BUILDING OR AS PART OF A FINISHED BUILDING THAT COMPRISES TWO OR MORE
26 INDUSTRIALIZED BUILDING UNITS.

27 (2) "INDUSTRIALIZED BUILDING" INCLUDES THE ELECTRICAL,
28 PLUMBING, HEATING, VENTILATING, INSULATION, AND OTHER SERVICE SYSTEMS OF
29 THE BUILDING ASSEMBLY OR SYSTEM OF BUILDING SUBASSEMBLIES IF THE
30 SERVICE SYSTEMS ARE INSTALLED AT THE OFF SITE MANUFACTURE OR ASSEMBLY
31 POINT.

32 (3) "INDUSTRIALIZED BUILDING" DOES NOT INCLUDE:

33 (I) OPEN FRAME CONSTRUCTION THAT CAN BE COMPLETELY
34 INSPECTED ON SITE; OR

35 (II) A MANUFACTURED HOME.

36 REVISOR'S NOTE: This subsection is new language derived without
37 substantive change from former Art. 83B, § 6-202(d).

1 %In paragraph (1) of this subsection, the defined term "site" is substituted
2 for the former reference to the "point of use" for accuracy and consistency
3 throughout this subtitle.

4 In paragraph (3)(ii) of this subsection and throughout this subtitle, the
5 term "manufactured home" is substituted for the former term "mobile
6 home" to conform to terminology used in the federal law that regulates
7 manufactured homes.

8 Defined terms: "Install" § 12-301

9 "Manufactured home" § 12-301

10 "Site" § 12-301

11 (E) INSTALL.

12 "INSTALL" MEANS TO ASSEMBLE AN INDUSTRIALIZED BUILDING OR
13 MANUFACTURED HOME ON SITE AND TO AFFIX THE INDUSTRIALIZED BUILDING OR
14 MANUFACTURED HOME TO LAND, A FOUNDATION, FOOTINGS, OR AN EXISTING
15 BUILDING.

16 REVISOR'S NOTE: This subsection is new language derived without
17 substantive change from former Art. 83B, § 6-202(e).

18 The reference to a "manufactured home" is added for clarity and
19 consistency throughout this subtitle.

20 Defined terms: "Industrialized building" § 12-301

21 "Manufactured home" § 12-301

22 "Site" § 12-301

23 (F) LOCAL ENFORCEMENT AGENCY.

24 "LOCAL ENFORCEMENT AGENCY" MEANS AN AGENCY OF THE GOVERNING
25 BODY OF A COUNTY OR MUNICIPAL CORPORATION THAT ENFORCES LAWS THAT
26 GOVERN THE CONSTRUCTION OF BUILDINGS.

27 REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-202(f).

28 The reference to a "municipal corporation" is substituted for the former
29 reference to a "city" to conform to Md. Constitution, Art. XI-E.

30 The former reference to "ordinances" is deleted as included in the reference
31 to "laws".

32 Defined term: "County" § 1-101

33 (G) MANUFACTURED HOME.

34 (1) "MANUFACTURED HOME" MEANS A STRUCTURE THAT:

35 (I) IS TRANSPORTABLE IN ONE OR MORE SECTIONS;

1 (II) IS 8 BODY FEET OR MORE IN WIDTH AND 30 BODY FEET OR
2 MORE IN LENGTH;

3 (III) IS BUILT ON A PERMANENT CHASSIS; AND

4 (IV) IS DESIGNED TO BE USED AS A DWELLING, WITH OR WITHOUT A
5 PERMANENT FOUNDATION, WHEN CONNECTED TO THE REQUIRED UTILITIES.

6 (2) "MANUFACTURED HOME" INCLUDES THE PLUMBING, HEATING,
7 AIR-CONDITIONING, AND ELECTRICAL SYSTEMS CONTAINED IN THE STRUCTURE.

8 REVISOR'S NOTE: This subsection is new language derived without
9 substantive change from former Art. 83B, § 6-202(g).

10 In this subsection and throughout this subtitle, the term "manufactured
11 home" is substituted for the former term "mobile home" to conform to
12 terminology used in the federal law that regulates manufactured homes.

13 The Public Safety Article Review Committee notes, for consideration by the
14 General Assembly, that the federal law that regulates manufactured
15 homes includes as manufactured homes structures that are 40 body feet or
16 more in length. The General Assembly may wish to consider amending this
17 subsection to follow federal law.

18 (H) MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS ACT.

19 "MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS ACT" MEANS
20 THE NATIONAL MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS
21 ACT OF 1974, 42 U.S.C. § 5401 ET SEQ.

22 REVISOR'S NOTE: This subsection is new language derived without
23 substantive change from former Art. 83B, § 6-202(h).

24 The reference to the "Manufactured Home Construction and Safety
25 Standards Act" is substituted for the former reference to the "Mobile Home
26 Construction and Safety Standards Act" to reflect the current title of the
27 federal statute.

28 Defined term: "Manufactured home" § 12-301

29 (I) SITE.

30 "SITE" MEANS THE ENTIRE TRACT, SUBDIVISION, OR PARCEL OF LAND ON
31 WHICH AN INDUSTRIALIZED BUILDING OR MANUFACTURED HOME IS INSTALLED.

32 REVISOR'S NOTE: This subsection is new language derived without
33 substantive change from former Art. 83B, § 6-202(j).

34 Defined terms: "Industrialized building" § 12-301

35 "Install" § 12-301

36 "Manufactured home" § 12-301

1 REVISOR'S NOTE TO SECTION:

2 Former Art. 83B, § 6-202(i), which defined "Secretary" as the Secretary of
3 Housing and Community Development, is deleted because the term is not
4 used in the revision.

5 12-302. LEGISLATIVE FINDINGS.

6 THE GENERAL ASSEMBLY FINDS THAT:

7 (1) WITH THE ACCELERATION IN DEVELOPMENT OF NEW MATERIALS,
8 PROCESSES, AND ASSEMBLIES OF BUILDING COMPONENTS, INDUSTRIALIZED
9 BUILDINGS, MANUFACTURED HOMES, AND SUBASSEMBLIES, AND THE INCREASED
10 USE OF TEMPORARY AND MOBILE STRUCTURES, THERE IS A NEED FOR A STATEWIDE
11 BUILDING REGULATORY SYSTEM;

12 (2) UNTIL THE RECENT INCREASE IN DEMAND FOR USE OF TEMPORARY
13 AND MOBILE STRUCTURES, THE PRESENT SYSTEM WITH ITS ESSENTIALLY LOCAL
14 BUILDING REGULATORY DEPARTMENTS HAS DONE A CREDITABLE JOB PROTECTING
15 THE HEALTH AND SAFETY OF THE PUBLIC IN THEIR RESPECTIVE COMMUNITIES;

16 (3) THIS NEW DEMAND CALLS FOR MORE IN DEPTH PERFORMANCE
17 EVALUATIONS IN TERMS OF THE INTENT OF THE BUILDING REGULATIONS AND
18 INSPECTION SERVICES THAT USUALLY INVOLVE GOING BEYOND THE BOUNDARIES
19 OF LOCAL UNITS OF GOVERNMENT AND REQUIRE THE ASSISTANCE OF THE STATE;

20 (4) LOCAL OFFICIALS IN THE STATE POSSESS GREAT KNOWLEDGE AND
21 INSIGHT IN THIS FIELD AND ARE AWARE OF THE NEEDS FOR MODIFICATION, AND
22 THEIR COOPERATION IN DEVELOPING, APPLYING, AND REFINING A SATISFACTORY
23 PROGRAM IS ESSENTIAL;

24 (5) THERE IS A GREAT OPPORTUNITY TO COOPERATE WITH OTHER
25 STATES, WITH ORGANIZATIONS THAT HAVE PUBLISHED WIDELY USED MODEL
26 BUILDING CODES OR STANDARDS OF REGULATIONS, AND WITH OTHER SIMILARLY
27 ENGAGED AGENCIES, INCLUDING THE NATIONAL INSTITUTE OF STANDARDS AND
28 TECHNOLOGY;

29 (6) THIS COOPERATION SHALL BE AN INTEGRAL ELEMENT IN THE
30 APPLICATION AND ENFORCEMENT OF THIS STATEWIDE PROGRAM; AND

31 (7) THE HEALTH AND SAFETY OF THE PUBLIC WILL BE PROTECTED
32 BEST IF THE STATE ASSUMES THE RESPONSIBILITY TO ENFORCE IN THE STATE
33 FEDERAL CONSTRUCTION AND SAFETY STANDARDS IN ACCORDANCE WITH THE
34 MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS ACT.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 83B, § 6-201.

37 In the introductory language of this section, the phrase "[t]he General
38 Assembly finds" is substituted for the former phrases "[i]t is found" and

1 "[i]t is further found" to clarify the entity who makes these findings.

2 Also in the introductory language of this section, the former references to
3 "declared" are deleted as redundant of the word "finds" and for consistency
4 with similar provisions in other revised articles of the Code. *See, e.g.*, BR §
5 3-102 and IN § 7-102.

6 In item (2) of this section, the reference to the health and safety of "the
7 public" is substituted for the former reference to the health and safety of
8 "the people" for consistency throughout this article. Similarly, in item (7) of
9 this section, the phrase "the public" is substituted for the former reference
10 to "Maryland residents" for clarity and consistency throughout this article.

11 In item (7) of this section, the specific reference to the "Manufactured
12 Home Construction and Safety Standards Act" is substituted for the
13 former reference to the "federal law establishing the standards" for clarity.

14 Defined terms: "Industrialized building" § 12-301

15 "Manufactured home" § 12-301

16 "Manufactured Home Construction and Safety Standards Act" § 12-301

17 "State" § 1-101

18 12-303. POWERS RESERVED TO LOCAL GOVERNMENT.

19 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, LOCAL LAND
20 USE REQUIREMENTS, BUILDING SETBACK REQUIREMENTS, SIDE AND REAR YARD
21 REQUIREMENTS, SITE DEVELOPMENT AND PROPERTY LINE REQUIREMENTS, ZONING
22 REQUIREMENTS AND UNIFORM FIRE CONTROL REGULATIONS, REGARDLESS OF
23 WHERE THE REQUIREMENTS, ORDINANCES, REGULATIONS, OR STATUTES ARE SET
24 FORTH, ARE RESERVED TO LOCAL GOVERNMENT.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 83B, § 6-204(c)(4).

27 The reference to "local" government is substituted for the former reference
28 to "city and county" government for brevity and consistency with
29 terminology used throughout this article.

30 12-304. DUTIES OF DEPARTMENT.

31 (A) FEES.

32 (1) THE DEPARTMENT SHALL ESTABLISH A SCHEDULE OF FEES TO
33 ADMINISTER THE INSPECTION AND CERTIFICATION PROGRAM FOR INDUSTRIALIZED
34 BUILDINGS AND THE ON-SITE INSPECTION AND ENFORCEMENT PROGRAM FOR
35 MANUFACTURED HOMES.

36 (2) TO THE EXTENT POSSIBLE, THE FEES SHALL BE BASED ON THE COST
37 OF ADMINISTRATION OF THESE PROGRAMS.

1 (3) THE PAYMENTS OF THE FEES SHALL BE INCLUDED IN THE MONEY
2 OF THE DEPARTMENT WITH RECEIPTS FROM CONTRACTS OR GRANTS UNDER
3 FEDERAL OR INTERSTATE PROGRAMS.

4 (4) ANY MONEY UNEXPENDED AT THE END OF THE FISCAL YEAR DOES
5 NOT REVERT TO THE GENERAL FUND, BUT SHALL BE KEPT IN A SPECIAL FUND
6 AVAILABLE TO THE DEPARTMENT TO CARRY OUT THIS SUBTITLE.

7 (B) ENFORCEMENT.

8 THE DEPARTMENT:

9 (1) SHALL ENFORCE THIS SUBTITLE AND THE REGULATIONS ADOPTED
10 UNDER THIS SUBTITLE; AND

11 (2) MAY REFER AN APPARENT VIOLATION OF THIS SUBTITLE TO THE
12 APPROPRIATE STATE'S ATTORNEY.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 83B, §§ 6-204(f) and 6-206(a).

15 In subsection (a)(3) and (4) of this section, the reference to "money" is
16 substituted for the former reference to "funds" for consistency with
17 terminology used throughout this article.

18 In the introductory language of subsection (b) of this section, the reference
19 to the "Department" is substituted for the former reference to the
20 "Secretary" for consistency with terminology used in this section and
21 throughout this subtitle and this title.

22 In subsection (b)(1) of this section, the former reference to "rules" is deleted
23 as included in the reference to "regulations". *See* General Revisor's Note to
24 article.

25 In subsection (b)(2) of this section, the former phrase "on information" is
26 deleted as surplusage.

27 Defined terms: "Department" § 12-301

28 "Industrialized building" § 12-301

29 "Manufactured home" § 12-301

30 12-305. STANDARDS FOR INDUSTRIALIZED BUILDINGS AND MANUFACTURED
31 HOMES.

32 (A) INDUSTRIALIZED BUILDINGS -- IN GENERAL.

33 THE DEPARTMENT:

34 (1) SHALL ADOPT REGULATIONS THAT SET STANDARDS TO WHICH
35 INDUSTRIALIZED BUILDINGS SHALL COMPLY TO PROTECT AGAINST THE HAZARDS
36 OF INDUSTRIALIZED BUILDINGS TO SAFETY, HEALTH, AND PROPERTY;

1 (2) MAY ADOPT REGULATIONS THAT GOVERN THE ENFORCEMENT,
2 INSPECTION, AND CERTIFICATION PROGRAMS AUTHORIZED BY THIS SUBTITLE; AND

3 (3) WITH RESPECT TO INDUSTRIALIZED BUILDINGS, SHALL ADOPT THE
4 MARYLAND BUILDING PERFORMANCE STANDARDS WITH EXCEPTIONS OR
5 MODIFICATIONS THAT, AFTER ADEQUATE PUBLIC NOTICE AND PUBLIC HEARING,
6 THE DEPARTMENT CONSIDERS APPROPRIATE TO MEET THE NEEDS AND JUDGMENTS
7 OF THE STATE.

8 (B) SAME -- ACCEPTANCE OF NEW MATERIALS AND METHODS.

9 (1) IF PRACTICAL, THE REGULATIONS THAT SET STANDARDS FOR
10 INDUSTRIALIZED BUILDINGS SHALL BE STATED IN TERMS OF REQUIRED LEVELS OF
11 PERFORMANCE TO FACILITATE THE PROMPT APPROVAL OF ACCEPTABLE NEW
12 BUILDING MATERIALS AND METHODS.

13 (2) IF GENERALLY RECOGNIZED STANDARDS OF PERFORMANCE ARE
14 NOT AVAILABLE, THE REGULATIONS SHALL PROVIDE FOR ACCEPTANCE OF
15 MATERIALS AND METHODS WHOSE PERFORMANCE HAS BEEN DETERMINED BY THE
16 DEPARTMENT, ON THE BASIS OF RELIABLE TEST AND EVALUATION DATA
17 PRESENTED BY THE PROPONENT, TO BE SUBSTANTIALLY EQUAL IN SAFETY TO THE
18 MATERIALS AND METHODS SPECIFIED WHEN USED FOR THE PURPOSE AND IN THE
19 MANNER RECOMMENDED.

20 (C) SAME -- PAMPHLETS.

21 (1) THE DEPARTMENT SHALL HAVE PRINTED AND KEEP IN PAMPHLET
22 FORM THE REGULATIONS THAT SET STANDARDS FOR INDUSTRIALIZED BUILDINGS.

23 (2) THE PAMPHLETS SHALL BE PROVIDED AT COST TO THE PUBLIC ON
24 REQUEST.

25 (D) MANUFACTURED HOME CONSTRUCTION OR SAFETY.

26 THE DEPARTMENT MAY ADOPT REGULATIONS THAT RELATE TO ISSUES OF
27 CONSTRUCTION OR SAFETY OF MANUFACTURED HOMES FOR WHICH A FEDERAL
28 STANDARD HAS NOT BEEN ESTABLISHED AND WHICH ARE NOT RESERVED TO A
29 LOCAL GOVERNMENT UNDER § 12-303 OF THIS SUBTITLE.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 83B, §§ 6-203(a), (b), and (c) and 6-207(b).

32 Throughout this section, the former reference to "rules" is deleted as
33 included in the reference to "regulations". See General Revisor's Note to
34 article.

35 In subsection (a)(2) of this section, the former reference to "all aspects of"
36 the enforcement, inspection, and certification programs is deleted as
37 surplusage.

1 %In subsection (a)(3) of this section, the reference to the "Maryland Building
2 Performance Standards" is substituted for the former obsolete reference to
3 the "Building Officials Conference of America basic code" for accuracy. *See*
4 Subtitle 5 of this title.

5 In subsection (c)(2) of this section, the former reference to "members of"
6 the public is deleted as surplusage.

7 In subsection (d) of this section, the former reference to "amend[ing]"
8 regulations is deleted as implicit in the authority to "adopt" regulations.

9 Also in subsection (d) of this section, the reference to "local" government is
10 substituted for the former reference to "city and county" government for
11 brevity and consistency with terminology used throughout this article.

12 Former Art. 83B, § 6-203(d), which provided an effective date in 1972 for
13 regulations adopted under this subtitle, is deleted as obsolete.

14 Defined terms: "Department" § 12-301

15 "Industrialized building" § 12-301

16 "Manufactured home" § 12-301

17 12-306. CERTIFICATION AND INSIGNIA REQUIRED.

18 (A) INDUSTRIALIZED BUILDINGS.

19 AN INDUSTRIALIZED BUILDING THAT IS MANUFACTURED AFTER JUNE 30, 1977,
20 MAY NOT BE SOLD, OFFERED FOR SALE, OR INSTALLED IN THE STATE UNLESS THE
21 INDUSTRIALIZED BUILDING:

22 (1) IS CERTIFIED BY THE DEPARTMENT FOR SALE IN THE STATE; AND

23 (2) BEARS THE INSIGNIA PROVIDED BY THE DEPARTMENT.

24 (B) MANUFACTURED HOMES.

25 A MANUFACTURED HOME THAT IS MANUFACTURED AFTER JANUARY 1, 1973,
26 MAY NOT BE SOLD OR OFFERED FOR SALE TO A FIRST USER IN THE STATE UNLESS
27 THE MANUFACTURED HOME:

28 (1) IS CERTIFIED BY THE DEPARTMENT FOR SALE IN THE STATE AND
29 BEARS THE INSIGNIA PROVIDED BY THE DEPARTMENT; OR

30 (2) IS CERTIFIED AND LABELED UNDER THE MANUFACTURED HOME
31 CONSTRUCTION AND SAFETY STANDARDS ACT.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 83B, §§ 6-208 and 6-204(c)(1).

34 In subsection (b)(1) of this section, the reference to the manufactured home
35 being "certified by the Department for sale in the State" is added for

1 clarity. The manufactured home would not bear the insignia of the
2 Department unless it was certified for sale in the State.

3 Defined terms: "Department" § 12-301

4 "First user" § 12-301

5 "Industrialized building" § 12-301

6 "Install" § 12-301

7 "Manufactured home" § 12-301

8 "Manufactured Home Construction and Safety Standards Act" § 12-301

9 12-307. EVALUATION AND TESTING OF INDUSTRIALIZED BUILDINGS.

10 (A) IN GENERAL.

11 (1) THE DEPARTMENT SHALL DETERMINE WHETHER EACH PROPOSED
12 INDUSTRIALIZED BUILDING MEETS THE STANDARDS CONTAINED IN THE
13 REGULATIONS OF THE DEPARTMENT.

14 (2) THE DETERMINATION SHALL INCLUDE THE EVALUATION AND
15 TESTING OF THE INDUSTRIALIZED BUILDING AND THE QUALITY CONTROL SYSTEM
16 AT THE FACTORY OF ORIGIN AND AT THE BUILDING SITE.

17 (B) AUTHORIZED TESTERS.

18 (1) THE DEPARTMENT SHALL PERFORM THE DETERMINATION
19 REQUIRED BY SUBSECTION (A) OF THIS SECTION THROUGH ITS OWN PERSONNEL OR
20 THROUGH A DESIGNATED AGENT.

21 (2) THE DESIGNATED AGENT SHALL BE:

22 (I) QUALIFIED PERSONNEL OF A LOCAL ENFORCEMENT AGENCY;
23 OR

24 (II) A TESTING FACILITY THAT IS APPROVED BY THE DEPARTMENT.

25 (3) THE TESTING FACILITY SHALL BE:

26 (I) AN ARCHITECT OR PROFESSIONAL ENGINEER WHOSE
27 REGISTRATION IS ACCEPTED BY THE STATE; OR

28 (II) A TESTING ORGANIZATION THAT IS DETERMINED BY THE
29 DEPARTMENT TO BE SPECIFICALLY QUALIFIED BY REASON OF FACILITIES,
30 PERSONNEL, EXPERIENCE, AND DEMONSTRATED RELIABILITY TO INVESTIGATE,
31 TEST, AND EVALUATE INDUSTRIALIZED BUILDINGS OR THEIR COMPONENT PARTS.

32 (4) IN ADDITION TO EVALUATING AND TESTING INDUSTRIALIZED
33 BUILDINGS OR THEIR COMPONENT PARTS, THE TESTING FACILITY SHALL:

34 (I) LIST THE UNITS IN COMPLIANCE WITH THE STANDARDS
35 ADOPTED BY THE DEPARTMENT;

1 (II) PROVIDE ADEQUATE FOLLOW-UP SERVICES AT THE POINT OF
2 MANUFACTURE TO ENSURE THAT PRODUCTION UNITS ARE IN FULL COMPLIANCE;
3 AND

4 (III) PROVIDE FOR EACH UNIT AN INSIGNIA IN THE FORM OF A
5 LABEL, SEAL, OR OTHER EVIDENCE OF COMPLIANCE.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 83B, § 6-202(a) and the first and second
8 sentences of § 6-204(a).

9 Subsection (b)(3) and (4) of this section are revised as substantive
10 provisions that relate to testing facilities rather than a definition of
11 "approved testing facility" for clarity.

12 In subsection (b)(4)(iii) of this section, the reference to "an insignia in the
13 form of" a label, seal, or other evidence of compliance is added to clarify
14 that the evidence of compliance is in the form of an insignia.

15 Defined terms: "Department" § 12-301

16 "Industrialized building" § 12-301

17 "Local enforcement agency" § 12-301

18 "Site" § 12-301

19 12-308. CERTIFICATION OF INDUSTRIALIZED BUILDINGS.

20 (A) IN GENERAL.

21 IF THE DEPARTMENT DETERMINES THAT AN INDUSTRIALIZED BUILDING
22 MEETS THE STANDARDS SET BY THE REGULATIONS OF THE DEPARTMENT, THE
23 DEPARTMENT SHALL CERTIFY THE INDUSTRIALIZED BUILDING FOR THE
24 PRESCRIBED AREA.

25 (B) LOCAL PUBLIC HEARINGS.

26 IF A PROBLEM ARISES THAT IS LIMITED TO A PARTICULAR LOCALITY IN THE
27 STATE, THE DEPARTMENT IF PRACTICABLE SHALL HOLD A PUBLIC HEARING IN THAT
28 LOCALITY.

29 (C) STANDARDS SET BY ANOTHER STATE.

30 BY REGULATION, THE DEPARTMENT MAY PROVIDE THAT INDUSTRIALIZED
31 BUILDINGS APPROVED BY ANOTHER STATE ARE ENTITLED TO CERTIFICATION BY
32 THE DEPARTMENT IF, AFTER PUBLIC HEARING, THE DEPARTMENT DETERMINES
33 THAT THE STANDARDS SET BY LAW OF THE OTHER STATE:

34 (1) ARE AT LEAST EQUAL TO THE REGULATIONS ADOPTED UNDER THIS
35 SUBTITLE; AND

36 (2) ARE ENFORCED ADEQUATELY BY THE OTHER STATE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from the fourth and fifth sentences and the second clause of the
3 third sentence of former Art. 83B, § 6-204(a).

4 In the introductory language of subsection (c) of this section, the reference
5 to standards set "by law" is substituted for the former reference to
6 standards set "by statute, rule or regulation" for brevity.

7 In subsection (c)(2) of this section, the word "actually", which formerly
8 modified "adequately enforced", is deleted as surplusage.

9 Defined terms: "Department" § 12-301

10 "Industrialized building" § 12-301

11 "State" § 1-101

12 12-309. INSIGNIA ON CERTIFIED BUILDINGS.

13 (A) IN GENERAL.

14 INDUSTRIALIZED BUILDINGS CERTIFIED BY THE DEPARTMENT FOR SALE IN
15 THE STATE SHALL BEAR THE INSIGNIA PROVIDED BY THE DEPARTMENT.

16 (B) EFFECT OF INSIGNIA.

17 AN INDUSTRIALIZED BUILDING THAT BEARS AN INSIGNIA PROVIDED BY THE
18 DEPARTMENT IS ACCEPTABLE IN ALL LOCALITIES OF THE STATE:

19 (1) TO COMPLY WITH THE REQUIREMENTS OF THIS SUBTITLE; AND

20 (2) TO MEET THE REQUIREMENTS OF SAFETY TO LIFE, HEALTH, AND
21 PROPERTY REQUIRED BY A LAW OR ORDINANCE OF A LOCAL GOVERNING BODY OF
22 THE STATE WITHOUT FURTHER INVESTIGATION OR INSPECTION BY THE LOCAL
23 GOVERNING BODY IF THE INDUSTRIALIZED BUILDING IS ERECTED OR INSTALLED IN
24 ACCORDANCE WITH THE CONDITIONS OF THE CERTIFICATION.

25 (C) INDUSTRIALIZED BUILDINGS NOT REQUIRED TO BEAR INSIGNIA.

26 (1) AN INDUSTRIALIZED BUILDING THAT WAS MANUFACTURED ON OR
27 BEFORE JUNE 30, 1977, AND IS NOT REQUIRED TO BEAR THE INSIGNIA PROVIDED BY
28 THE DEPARTMENT:

29 (I) MAY BE LAWFULLY SOLD OR INSTALLED; AND

30 (II) IS SUBJECT TO REGULATION BY THE LOCAL GOVERNING BODY
31 OF THE JURISDICTION WHERE THE INDUSTRIALIZED BUILDING WILL BE INSTALLED.

32 (2) IF AN INDUSTRIALIZED BUILDING THAT IS NOT REQUIRED TO BEAR
33 THE INSIGNIA PROVIDED BY THE DEPARTMENT IS OFFERED FOR SALE, THE SELLER
34 OR MANUFACTURER SHALL SPECIFICALLY ADVISE THE PROSPECTIVE PURCHASER
35 THAT THE BUILDING HAS NOT BEEN CERTIFIED BY THE STATE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 83B, § 6-204(c)(2) and (3) and the first sentence of
3 (1).

4 In the introductory language of subsection (c)(1) of this section, the
5 reference to an industrialized building that "was manufactured on or
6 before June 30, 1977" is substituted for the former phrase "by reason of
7 date of manufacture" for clarity and consistency with § 12-306(a) of this
8 subtitle.

9 In subsection (c)(1)(ii) of this section, the reference to "regulation by" the
10 local governing body is substituted for the former reference to "control" of
11 that body for clarity.

12 Defined terms: "Department" § 12-301

13 "Industrialized building" § 12-301

14 "Install" § 12-301

15 12-310. ISSUANCE, DENIAL, OR MODIFICATION OF CERTIFICATION; FORFEITURE.

16 (A) IN GENERAL.

17 THE ISSUANCE, DENIAL, OR MODIFICATION OF A CERTIFICATION:

18 (1) SHALL BE MADE BY THE DEPARTMENT; AND

19 (2) MAY BE REVIEWED BY THE DEPARTMENT'S BOARD OF REVIEW.

20 (B) REVIEW OF ISSUANCE OR DENIAL OF CERTIFICATION.

21 LOCAL ENFORCEMENT AGENCY REPRESENTATIVES, MANUFACTURERS, AND
22 INSTALLERS OF INDUSTRIALIZED BUILDINGS MAY SEEK REVIEW BY THE
23 DEPARTMENT OF THE ISSUANCE OR DENIAL OF A CERTIFICATION.

24 (C) FORFEITURE OF CERTIFICATION AND INSIGNIA.

25 ANY ALTERATION, MODIFICATION, OR ATTEMPTED USE OF AN INDUSTRIALIZED
26 BUILDING BEYOND THE SCOPE OF THE CERTIFICATION RESULTS IN FORFEITURE OF
27 THE CERTIFICATION AND INSIGNIA UNLESS APPROVAL FOR THE MODIFICATION OR
28 USE IS SECURED FROM THE DEPARTMENT IN ADVANCE.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 83B, § 6-204(d) and the first and second
31 sentences and first clause of the third sentence of (e).

32 Defined terms: "Department" § 12-301

33 "Local enforcement agency" § 12-301

34 12-311. INSPECTIONS.

35 (A) IN GENERAL.

1 THE DEPARTMENT SHALL MAINTAIN A PROGRAM OF ADEQUATE INSPECTION
2 OF INDUSTRIALIZED BUILDINGS.

3 (B) UNANNOUNCED INSPECTIONS.

4 (1) EACH MANUFACTURER OF INDUSTRIALIZED BUILDINGS TO BE SOLD
5 OR OFFERED FOR SALE TO FIRST USERS IN THE STATE SHALL AGREE THAT THE
6 DEPARTMENT HAS THE RIGHT TO CONDUCT UNANNOUNCED INSPECTIONS AT THE
7 MANUFACTURING SITE TO REVIEW ANY ASPECT OF THE MANUFACTURER'S QUALITY
8 CONTROL PROGRAM.

9 (2) THE COST OF TWO UNANNOUNCED INSPECTIONS MAY BE CHARGED
10 TO THE MANUFACTURER IN ACCORDANCE WITH A FEE SCHEDULE ESTABLISHED BY
11 THE DEPARTMENT.

12 (3) IN ADDITION, THE TOTAL TRAVEL COSTS ON PUBLISHED AIR FARE,
13 OR EQUIVALENT RATE, BETWEEN BALTIMORE AND THE LOCATION OF THE FACTORY,
14 PLUS NECESSARY SUPPLEMENTAL SURFACE TRANSPORTATION AND
15 REIMBURSEMENT FOR FOOD AND LODGING CONSISTENT WITH ALLOWANCES FOR
16 STATE EMPLOYEES MAY BE CHARGED TO THE MANUFACTURER.

17 (C) INSPECTIONS BY LOCAL ENFORCEMENT AGENCY PERSONNEL.

18 (1) THE DEPARTMENT MAY ESTABLISH A PROGRAM OF TRAINING AND
19 ACCREDITATION OF LOCAL ENFORCEMENT AGENCY PERSONNEL TO:

20 (I) ENABLE THEM TO BE MOST EFFECTIVE IN INSPECTION OF
21 INDUSTRIALIZED BUILDINGS OR MANUFACTURED HOMES; AND

22 (II) PROMOTE THE POSSIBILITY OF RECIPROCAL RELIANCE
23 BETWEEN BUILDING PERSONNEL IN THIS STATE AND BETWEEN THIS STATE AND
24 OTHER STATES.

25 (2) IN THOSE JURISDICTIONS THAT EMPLOY ACCREDITED LOCAL
26 ENFORCEMENT AGENCY PERSONNEL, THE FUNCTION OF ON-SITE INSPECTION OF
27 THE INSTALLATION OR ASSEMBLY OF INDUSTRIALIZED BUILDINGS IS RESERVED TO
28 THOSE JURISDICTIONS WITH APPROPRIATE APPEAL PROCEDURES FROM THEIR
29 DECISIONS.

30 (D) REINSPECTIONS.

31 (1) LOCAL ENFORCEMENT AGENCY REPRESENTATIVES,
32 MANUFACTURERS, AND INSTALLERS MAY REPORT TO THE DEPARTMENT AN
33 INDUSTRIALIZED BUILDING THAT HAS BEEN DAMAGED EN ROUTE TO THE SITE SO
34 THAT THE DEPARTMENT MAY ARRANGE FOR A REINSPECTION OF THE
35 INDUSTRIALIZED BUILDING.

36 (2) THE DEPARTMENT MAY CHARGE A REINSPECTION FEE TO THE
37 INSTALLER OF THE INDUSTRIALIZED BUILDING.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 83B, § 6-204(b), the third sentence of (a), as it
3 related to inspections, and the fourth sentence and second clause of the
4 third sentence of (e).

5 Defined terms: "Department" § 12-301

6 "First user" § 12-301

7 "Industrialized building" § 12-301

8 "Local enforcement agency" § 12-301

9 "Manufactured home" § 12-301

10 "Site" § 12-301

11 "State" § 1-101

12 12-312. ENFORCEMENT OF MANUFACTURED HOME CONSTRUCTION AND SAFETY
13 STANDARDS ACT.

14 (A) IN GENERAL.

15 THE DEPARTMENT MAY ACT AS NECESSARY OR DESIRABLE TO CARRY OUT A
16 STATE PLAN OF ENFORCEMENT UNDER THE MANUFACTURED HOME CONSTRUCTION
17 AND SAFETY STANDARDS ACT.

18 (B) SPECIFIC AUTHORITY.

19 THE AUTHORITY OF THE DEPARTMENT UNDER SUBSECTION (A) OF THIS
20 SECTION INCLUDES THE AUTHORITY TO:

21 (1) CONTRACT WITH OR ACCEPT GRANTS FROM THE DEPARTMENT OF
22 HOUSING AND URBAN DEVELOPMENT, THE NATIONAL CONFERENCE OF STATES ON
23 BUILDING CODES AND STANDARDS, THEIR SUCCESSORS, OR OTHER SIMILAR
24 ORGANIZATIONS WITH RESPECT TO THE ENFORCEMENT OF MANUFACTURED HOME
25 STANDARDS AND PERFORM THE UNDERTAKINGS AND CONDITIONS OF THE
26 CONTRACT OR GRANT;

27 (2) ENGAGE IN FACTORY INSPECTION AND QUALITY CONTROL
28 MONITORING OF MANUFACTURED HOME MANUFACTURERS IN THE STATE AND
29 OUTSIDE THE STATE WITH RESPECT TO MANUFACTURED HOMES TO BE SOLD IN THE
30 STATE OR, IF ON A RECIPROCAL OR COOPERATIVE BASIS, NOT INTENDED FOR SALE
31 IN THE STATE;

32 (3) TRAIN AND ACCREDIT LOCAL ENFORCEMENT AGENCY PERSONNEL
33 WITH RESPECT TO MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS
34 AND MANUFACTURED HOME INSTALLATION;

35 (4) INSPECT MANUFACTURED HOMES IN THE POSSESSION OF DEALERS
36 OR OTHERWISE DISTRIBUTED IN THE STATE, TO:

37 (I) VERIFY THAT THE FEDERAL CERTIFICATION IS PROPER FOR
38 THE INTENDED ZONE; AND

1 (II) ASCERTAIN ANY DAMAGE IN TRANSIT THAT AFFECTS
2 COMPLIANCE WITH CONSTRUCTION OR SAFETY STANDARDS OR CONSTITUTES A
3 SAFETY HAZARD;

4 (5) ESTABLISH PROCEDURES TO ASCERTAIN, REPORT ON, AND CORRECT
5 COMPLAINTS AND REPORTS OF DEFECTS FROM OR TO DEALERS OR USERS OF
6 MANUFACTURED HOMES;

7 (6) CONDUCT ON-SITE INSPECTION OF THE INSTALLATION OF
8 MANUFACTURED HOMES, REQUIRE A PERMIT OR OTHER EVIDENCE OF APPROVAL OF
9 THE ON-SITE INSTALLATION, AND CHARGE A FEE TO COVER COSTS ALTHOUGH
10 THESE FUNCTIONS MAY BE PERFORMED BY A LOCAL ENFORCEMENT AGENCY THAT
11 EMPLOYS ACCREDITED INSPECTORS; AND

12 (7) REQUIRE MANUFACTURED HOME DEALERS AND MANUFACTURED
13 HOME PARK OPERATORS TO ALLOW ENTRY AND INSPECTION OF MANUFACTURED
14 HOMES FOR PURPOSES OF THIS SUBTITLE AND SUBMIT REPORTS FOR PURPOSES OF
15 THIS SUBTITLE.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 83B, § 6-207(a).

18 Defined terms: "Department" § 12-301

19 "Install" § 12-301

20 "Local enforcement agency" § 12-301

21 "Manufactured home" § 12-301

22 "Manufactured Home Construction and Safety Standards Act" § 12-301

23 12-313. PROHIBITED ACTS; PENALTIES.

24 (A) VIOLATION OF SUBTITLE OR REGULATION PROHIBITED; PENALTY.

25 (1) A PERSON MAY NOT VIOLATE THIS SUBTITLE OR A REGULATION
26 ADOPTED UNDER THIS SUBTITLE.

27 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
28 MISDEMEANOR AND ON CONVICTION IS SUBJECT FOR EACH VIOLATION TO A FINE
29 NOT EXCEEDING \$1,000.

30 (3) THIS SUBSECTION DOES NOT APPLY TO A VIOLATION OF 42 U.S.C. §
31 5409.

32 (B) VIOLATION OF FEDERAL ACT -- CIVIL PENALTY.

33 (1) A PERSON MAY NOT IN THE STATE VIOLATE 42 U.S.C. § 5409 OR A
34 REGULATION ADOPTED OR ORDER ISSUED UNDER IT.

35 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS LIABLE TO THE
36 STATE FOR A CIVIL PENALTY NOT EXCEEDING \$1,000 FOR EACH VIOLATION.

1 (3) EACH VIOLATION UNDER THIS SUBSECTION IS A SEPARATE
2 VIOLATION WITH RESPECT TO EACH MANUFACTURED HOME OR WITH RESPECT TO
3 EACH FAILURE OR REFUSAL TO ALLOW OR PERFORM AN ACT REQUIRED BY 42 U.S.C.
4 § 5409 OR A REGULATION ADOPTED OR ORDER ISSUED UNDER IT.

5 (4) A CIVIL PENALTY UNDER THIS SUBSECTION MAY NOT EXCEED
6 \$1,000,000 FOR ANY RELATED SERIES OF VIOLATIONS OCCURRING WITHIN 1 YEAR
7 AFTER THE DATE OF THE FIRST VIOLATION.

8 (C) SAME -- CRIMINAL PENALTY.

9 (1) AN INDIVIDUAL OR A DIRECTOR, OFFICER, OR AGENT OF A
10 CORPORATION MAY NOT IN THE STATE KNOWINGLY AND WILLFULLY VIOLATE 42
11 U.S.C. § 5409 IN A MANNER THAT THREATENS THE HEALTH OR SAFETY OF A
12 PURCHASER OF A MANUFACTURED HOME.

13 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
14 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
15 EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 83B, § 6-206(b), (c), and (d).

18 In subsection (a)(1) of this section, the former reference to a "rule" is
19 deleted as included in the reference to a "regulation". *See* General Revisor's
20 Note to article.

21 In subsection (c)(1) of this section, the reference to a purchaser "of a
22 manufactured home" is added for clarity.

23 In subsection (c)(2) of this section, the reference to being "guilty of a
24 misdemeanor" is added to state expressly that which was only implied in
25 the former law. In this State, any crime that was not a felony at common
26 law and has not been declared a felony by statute, is considered to be a
27 misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v.*
28 *State*, 136 Md. 342, 345 (1920); *Williams v. State*, 4 Md. App. 342, 347
29 (1968); and *Dutton v. State*, 123 Md. 373, 378 (1914).

30 Also in subsection (c)(2) of this section, the reference to a person "on
31 conviction" being subject to a certain penalty is added to state expressly
32 that which only was implied in the former law and for consistency with
33 other penalty provisions in this and other revised articles of the Code.

34 Defined terms: "Manufactured home" § 12-301

35 "Person" § 1-101

SUBTITLE 4. SAFETY GLAZING.

1

2 12-401. DEFINITIONS.

3 (A) IN GENERAL.

4 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

5 REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-301(a).

6 No changes are made.

7 (B) ANSI STANDARD.

8 "ANSI STANDARD" MEANS THE AMERICAN NATIONAL STANDARDS INSTITUTE
9 STANDARD ANSI Z 97.1 - 1984, AS ADOPTED MOST RECENTLY BY THE DEPARTMENT IN
10 THE MARYLAND BUILDING PERFORMANCE STANDARDS.

11 REVISOR'S NOTE: This subsection is new language added as a shorthand
12 reference to the "American National Standards Institute Standard ANSI z
13 97.1 - 1984, as adopted most recently by the Department of Housing and
14 Community Development in the Maryland Building Performance
15 Standards".

16 Defined term: "Department" § 12-401

17 (C) DEPARTMENT.

18 "DEPARTMENT" MEANS THE DEPARTMENT OF HOUSING AND COMMUNITY
19 DEVELOPMENT.

20 REVISOR'S NOTE: This subsection is new language added to avoid repetition
21 of the full title "Department of Housing and Community Development".

22 (D) FIXED GLAZED PANEL IMMEDIATELY ADJACENT TO AN ENTRANCE OR
23 EXIT DOOR.

24 "FIXED GLAZED PANEL IMMEDIATELY ADJACENT TO AN ENTRANCE OR EXIT
25 DOOR" MEANS THE FIRST FIXED GLAZED PANEL THAT:

26 (1) IS BESIDE AN ENTRANCE OR EXIT DOOR;

27 (2) HAS A GLAZING LESS THAN 18 INCHES FROM THE FINISHED FLOOR
28 OR THE LEAST DIMENSION OF WHICH IS 18 INCHES OR MORE; AND

29 (3) MAY BE MISTAKEN AS A MEANS OF EGRESS OR INGRESS.

30 REVISOR'S NOTE: This subsection is new language derived without
31 substantive change from former Art. 83B, § 6-301(d).

32 In item (1) of this subsection, the reference to "beside an entrance or exit

1 door" is substituted for the former reference to "on either or both sides of
2 the door(s)" for clarity and brevity.

3 (E) HAZARDOUS LOCATION.

4 (1) "HAZARDOUS LOCATION" MEANS A PLACE FOR A DOOR, PANEL,
5 ENCLOSURE, OR OTHER ELEMENT, THAT IS GLAZED OR TO BE GLAZED, IN A
6 RESIDENTIAL, INDUSTRIAL, COMMERCIAL, INSTITUTIONAL, OR PUBLIC BUILDING
7 WHERE THE USE OF MATERIAL OTHER THAN SAFETY GLAZING MATERIAL
8 CONSTITUTES AN UNREASONABLE HAZARD.

9 (2) "HAZARDOUS LOCATION" INCLUDES A PLACE FOR A FRAMED OR
10 UNFRAMED EXIT DOOR, A STORM DOOR EXCEPT AN OPERATING VENT ON A JALOUSIE
11 DOOR, A FIXED OR MOVING SLIDING DOOR, A SHOWER DOOR, A TUB ENCLOSURE, A
12 FIXED GLAZED PANEL IMMEDIATELY ADJACENT TO AN ENTRANCE OR EXIT DOOR,
13 AND ANY OTHER ELEMENT, THAT IS GLAZED OR TO BE GLAZED, WHETHER OR NOT
14 THE GLAZING IS TRANSPARENT.

15 REVISOR'S NOTE: This subsection is new language derived without
16 substantive change from the first sentence of former Art. 83B, § 6-301(c),
17 except as it related to determinations by the Secretary of Housing and
18 Community Development.

19 Defined terms: "Fixed glazed panel immediately adjacent to an entrance

20 or exit door" § 12-401

21 "Safety glazing material" § 12-401

22 (F) SAFETY GLAZING MATERIAL.

23 (1) "SAFETY GLAZING MATERIAL" MEANS GLAZING MATERIAL THAT:

24 (I) IS CONSTRUCTED, TREATED, OR COMBINED WITH OTHER
25 MATERIALS TO MINIMIZE THE LIKELIHOOD OF CUTTING AND PIERCING INJURIES
26 RESULTING FROM HUMAN CONTACT WITH THE GLAZING MATERIAL; AND

27 (II) MEETS THE TEST REQUIREMENTS OF THE ANSI STANDARD.

28 (2) "SAFETY GLAZING MATERIAL" INCLUDES TEMPERED GLASS,
29 LAMINATED GLASS, WIRE GLASS, OR RIGID PLASTIC.

30 REVISOR'S NOTE: This subsection is new language derived without
31 substantive change from former Art. 83B, § 6-301(b), except as it related to
32 further requirements adopted by the Department of Housing and
33 Community Development.

34 Defined term: "ANSI Standard" § 12-401

35 12-402. SCOPE OF SUBTITLE; EFFECT OF SUBTITLE.

36 (A) CONTRACTS EXECUTED BEFORE JULY 1, 1973.

1 THIS SUBTITLE DOES NOT APPLY TO A PERSON WHO EXECUTED A LEGALLY
2 BINDING WRITTEN CONTRACT BEFORE JULY 1, 1973, TO SELL, FABRICATE,
3 ASSEMBLE, GLAZE, INSTALL, CONSENT TO, OR CAUSE TO BE INSTALLED, GLAZING
4 MATERIAL OTHER THAN SAFETY GLAZING MATERIAL IN, OR FOR USE IN, A
5 HAZARDOUS LOCATION IN THE STATE.

6 (B) EFFECT OF SUBTITLE ON COUNTY OR MUNICIPAL ORDINANCES.

7 (1) THIS SUBTITLE SUPERSEDES ANY COUNTY OR MUNICIPAL
8 ORDINANCE THAT RELATES TO SAFETY GLAZING, THAT IS LESS STRINGENT THAN
9 THOSE IN EFFECT UNDER THIS SUBTITLE.

10 (2) THIS SUBTITLE DOES NOT PRECLUDE A POLITICAL SUBDIVISION OF
11 THE STATE FROM ADOPTING AND ENFORCING REQUIREMENTS AND REGULATIONS
12 THAT ARE MORE STRINGENT THAN THOSE IN EFFECT UNDER THIS SUBTITLE.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 83B, §§ 6-305 and 6-306.

15 In subsection (b)(1) of this section, the phrase "that is less stringent than
16 those in effect under this subtitle" is added for clarity. Subsection (b)(2) of
17 this section authorizes the adoption of more stringent requirements and
18 regulations by political subdivisions of the State.

19 Also in subsection (b)(1) of this section, the reference to "safety glazing" is
20 substituted for the former reference to "the subject matter hereof" for
21 specificity. The subject matter of this subtitle is safety glazing.

22 Also in subsection (b)(1) of this section, the former reference to a "local"
23 ordinance is deleted as included in the reference to a "county or municipal"
24 ordinance.

25 Also in subsection (b)(1) of this section, the former phrase "or parts
26 thereof", which related to a county or municipal ordinance, is deleted as
27 surplusage.

28 Defined terms: "County" § 1-101

29 "Hazardous location" § 12-401

30 "Person" § 1-101

31 "Safety glazing material" § 12-401

32 12-403. ADOPTION OF ADDITIONAL REQUIREMENTS FOR SAFETY GLAZING
33 MATERIAL.

34 AFTER NOTICE AND HEARING AS REQUIRED UNDER TITLE 10, SUBTITLE 1 OF
35 THE STATE GOVERNMENT ARTICLE, THE DEPARTMENT MAY ADOPT ADDITIONAL
36 REQUIREMENTS FOR SAFETY GLAZING MATERIAL.

37 REVISOR'S NOTE: This section is new language derived without substantive
38 change from former Art. 83B, § 6-301(b), as it related to further

1 requirements adopted by the Department of Housing and Community
2 Development.

3 Defined terms: "Department" § 12-401

4 "Safety glazing material" § 12-401

5 12-404. DETERMINATION OF HAZARDOUS LOCATION.

6 (A) IN GENERAL.

7 AFTER NOTICE AND HEARING AS REQUIRED UNDER TITLE 10, SUBTITLE 1 OF
8 THE STATE GOVERNMENT ARTICLE, THE DEPARTMENT MAY DETERMINE WHETHER A
9 LOCATION IS A HAZARDOUS LOCATION.

10 (B) EXCEPTION.

11 AFTER NOTICE AND HEARING, THE DEPARTMENT MAY EXCEPT FROM SAFETY
12 GLAZING REQUIREMENTS A PANEL IN A HAZARDOUS LOCATION IF THE PANEL:

13 (1) IS LESS THAN 200 SQUARE INCHES; AND

14 (2) IS LOCATED SO THAT THE USE OF MATERIAL OTHER THAN SAFETY
15 GLAZING MATERIAL WOULD NOT CONSTITUTE AN UNREASONABLE HAZARD.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from the second sentence of former Art. 83B, § 6-301(c) and, as it
18 related to determinations by the Secretary of Housing and Community
19 Development, the first sentence.

20 In the introductory language of subsection (b) of this section, the reference
21 to a panel "in a hazardous location" is added for clarity.

22 Defined terms: "Department" § 12-401

23 "Hazardous location" § 12-401

24 "Safety glazing material" § 12-401

25 12-405. LABELING OF SAFETY GLAZING MATERIAL.

26 (A) PERMANENT LABELING REQUIRED.

27 (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, EACH
28 LIGHT OF SAFETY GLAZING MATERIAL MANUFACTURED, IMPORTED, OR SOLD FOR
29 USE IN A HAZARDOUS LOCATION OR INSTALLED IN A HAZARDOUS LOCATION IN THE
30 STATE SHALL BE PERMANENTLY LABELED BY ETCHING, SANDBLASTING, FIRING OF
31 CERAMIC MATERIAL, HOT-DIE STAMPING, OR OTHER MEANS.

32 (2) THE LABEL SHALL BE LEGIBLE AND VISIBLE AFTER INSTALLATION.

33 (B) CONTENTS.

34 THE LABEL SHALL:

1 (1) IDENTIFY THE LABELER;

2 (2) IDENTIFY WHETHER THE LABELER IS A MANUFACTURER,
3 FABRICATOR, OR INSTALLER;

4 (3) IDENTIFY THE NOMINAL THICKNESS AND TYPE OF SAFETY GLAZING
5 MATERIAL; AND

6 (4) STATE THAT THE SAFETY GLAZING MATERIAL MEETS THE TEST
7 REQUIREMENTS OF THE ANSI STANDARD.

8 (C) EXCEPTION.

9 WIRE GLASS, LAMINATED GLASS, OR RIGID PLASTIC THAT IS FURTHER
10 FABRICATED AFTER MANUFACTURE NEED NOT BE PERMANENTLY LABELED IF THE
11 SELLER OR INSTALLER OF THE MATERIAL GIVES EACH BUYER OF THE MATERIAL A
12 CERTIFICATE THAT STATES THAT THE WIRE GLASS, LAMINATED GLASS, OR RIGID
13 PLASTIC MEETS THE TEST REQUIREMENTS OF THE ANSI STANDARD.

14 (D) LABELING ON OTHER MATERIAL PROHIBITED.

15 SAFETY GLAZING LABELING MAY NOT BE USED ON MATERIAL OTHER THAN
16 SAFETY GLAZING MATERIAL.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 83B, § 6-302.

19 In subsection (a)(1) of this section, the former reference to other "suitable"
20 means is deleted as implicit.

21 Defined terms: "ANSI Standard" § 12-401

22 "Hazardous location" § 12-401

23 "Safety glazing material" § 12-401

24 12-406. SALE OR INSTALLATION OF MATERIAL OTHER THAN SAFETY GLAZING
25 MATERIAL IN HAZARDOUS LOCATION PROHIBITED.

26 (A) IN GENERAL.

27 A PERSON MAY NOT IN THE STATE KNOWINGLY SELL, INSTALL, CONSENT, OR
28 CAUSE TO BE INSTALLED GLAZING MATERIAL OTHER THAN SAFETY GLAZING
29 MATERIAL IN, OR FOR USE IN, A HAZARDOUS LOCATION.

30 (B) LIABILITY OF EMPLOYEES.

31 A WORKER WHO IS AN EMPLOYEE OF A CONTRACTOR, SUBCONTRACTOR, OR
32 OTHER EMPLOYER RESPONSIBLE FOR COMPLIANCE WITH THIS SUBTITLE, IS NOT
33 LIABLE FOR A VIOLATION OF THIS SUBTITLE.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 83B, § 6-303.

1 Defined terms: "Hazardous location" § 12-401

2 "Person" § 1-101

3 "Safety glazing material" § 12-401

4 12-407. VIOLATION OF SUBTITLE.

5 (A) PROHIBITED.

6 A PERSON MAY NOT VIOLATE THIS SUBTITLE.

7 (B) PENALTY.

8 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
9 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE
10 NOT EXCEEDING \$1,000 OR BOTH.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 83B, § 6-304.

13 Defined term: "Person" § 1-101

14 SUBTITLE 5. MARYLAND BUILDING PERFORMANCE STANDARDS.

15 12-501. DEFINITIONS.

16 (A) IN GENERAL.

17 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

18 REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-401(a).

19 No changes are made.

20 (B) BUILDING.

21 "BUILDING" HAS THE MEANING STATED IN THE INTERNATIONAL BUILDING
22 CODE.

23 REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-401(b).

24 The former reference to the "interpretation set forth" in the International
25 Building Code is deleted as unnecessary because the International
26 Building Code does not include interpretive guidance.

27 Defined term: "International Building Code" § 12-501

28 (C) DEPARTMENT.

29 "DEPARTMENT" MEANS THE DEPARTMENT OF HOUSING AND COMMUNITY
30 DEVELOPMENT.

1 REVISOR'S NOTE: This subsection is new language added to avoid repetition
2 of the full title of the "Department of Housing and Community
3 Development".

4 (D) INTERNATIONAL BUILDING CODE.

5 (1) "INTERNATIONAL BUILDING CODE" MEANS THE FIRST PRINTING OF
6 THE MOST RECENT EDITION OF THE INTERNATIONAL BUILDING CODE ISSUED BY
7 THE INTERNATIONAL CODE COUNCIL.

8 (2) "INTERNATIONAL BUILDING CODE" DOES NOT INCLUDE INTERIM
9 AMENDMENTS OR SUBSEQUENT PRINTINGS OF THE MOST RECENT EDITION OF THE
10 INTERNATIONAL BUILDING CODE.

11 REVISOR'S NOTE: This subsection is new language derived without
12 substantive change from former Art. 83B, § 6-401(d) and (e).

13 In paragraph (1) of this subsection, the word "periodically", which formerly
14 modified "issued", is deleted as surplusage.

15 Also in paragraph (1) of this subsection, the former reference to "the
16 organization known as" the International Code Council is deleted as
17 surplusage.

18 (E) LOCAL JURISDICTION.

19 "LOCAL JURISDICTION" MEANS THE COUNTY OR MUNICIPAL CORPORATION
20 THAT IS RESPONSIBLE FOR IMPLEMENTATION AND ENFORCEMENT OF THE
21 STANDARDS UNDER THIS SUBTITLE.

22 REVISOR'S NOTE: This subsection is new language derived without
23 substantive change from former Art. 83B, § 6-401(f).

24 The term "municipal corporation" is substituted for the former term
25 "municipality" for consistency with Md. Constitution, Art. XI-E.

26 The general reference to implementation and enforcement of the
27 Standards "under this subtitle" is substituted for the former specific
28 reference to implementation and enforcement "as more specifically
29 provided in § 6-402(f) of this subtitle" because a specific cross-reference is
30 generally not necessary in a definition.

31 Defined terms: "County" § 1-101

32 "Standards" § 12-501

33 (F) STANDARDS.

34 "STANDARDS" MEANS THE MARYLAND BUILDING PERFORMANCE STANDARDS.

35 REVISOR'S NOTE: This subsection is new language derived without
36 substantive change from former Art. 83B, § 6-401(g).

1 %The defined term "Standards" is intended to be used as a shorthand
2 reference to the "Maryland Building Performance Standards".

3 The former reference to the Maryland Building Performance Standards
4 being "the International Building Code adopted by the Department under
5 § 6-402 of this subtitle" is deleted as unnecessary in the definition because
6 the substantive provision that requires the Department to adopt the
7 International Building Code is stated in § 12-503(a) of this subtitle.

8 (G) STRUCTURE.

9 "STRUCTURE" HAS THE MEANING STATED IN THE INTERNATIONAL BUILDING
10 CODE.

11 REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-401(k).

12 The former reference to the "interpretation set forth" in the International
13 Building Code is deleted as unnecessary because the International
14 Building Code does not include interpretive guidance.

15 Defined term: "International Building Code" § 12-501

16 REVISOR'S NOTE TO SECTION:

17 Former Art. 83B, § 6-401(c), which defined "county" to mean any of the 23
18 counties of the State and Baltimore City, is deleted in light of § 1-101 of
19 this article to the same effect.

20 Former Art. 83B, § 6-401(h), which defined "municipality" as a municipal
21 corporation subject to Article XI-E of the State Constitution, is deleted as
22 unnecessary because the definition did not add anything to the meaning of
23 the term as commonly used in revised articles of the Code.

24 12-502. EFFECT OF SUBTITLE.

25 (A) ON STATE BOARDS AND COMMISSIONS.

26 THIS SUBTITLE DOES NOT ALTER OR ABROGATE THE AUTHORITY OF:

27 (1) THE STATE BOARD OF PLUMBING TO ADOPT AND ENFORCE THE
28 STATE PLUMBING CODE UNDER THE MARYLAND PLUMBING ACT, TITLE 12 OF THE
29 BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE;

30 (2) THE STATE BOARD OF HEATING, VENTILATION, AIR-CONDITIONING,
31 AND REFRIGERATION CONTRACTORS TO ADOPT AND ENFORCE THE STATE HEATING,
32 VENTILATION, AIR-CONDITIONING, AND REFRIGERATION CODE UNDER THE
33 MARYLAND HEATING, VENTILATION, AIR-CONDITIONING, AND REFRIGERATION
34 CONTRACTORS ACT, TITLE 9A OF THE BUSINESS REGULATION ARTICLE;

35 (3) THE COMMISSIONER OF LABOR AND INDUSTRY TO ADOPT AND
36 ENFORCE STANDARDS FOR ELEVATOR SAFETY UNDER SUBTITLE 8 OF THIS TITLE;

1 (4) THE STATE FIRE PREVENTION COMMISSION TO ENFORCE THE
2 ELECTRICAL CODE UNDER SUBTITLE 6 OF THIS TITLE; OR

3 (5) THE PUBLIC SERVICE COMMISSION TO ENFORCE THE ENERGY CODE
4 DEFINED UNDER THE ENERGY CONSERVATION BUILDING STANDARDS ACT, TITLE 7,
5 SUBTITLE 4 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

6 (B) ON ZONING POWER OF COUNTIES AND MUNICIPAL CORPORATIONS.

7 THIS SUBTITLE DOES NOT ALTER OR ABROGATE ANY ZONING POWER OR
8 RELATED AUTHORITY THAT A COUNTY OR MUNICIPAL CORPORATION HAD ON
9 OCTOBER 1, 1993.

10 (C) ON ROLE OF STATE TO ADMINISTER AND ENFORCE STANDARDS.

11 THIS SUBTITLE DOES NOT ALLOW OR ENCOURAGE THE STATE TO INITIATE OR
12 ASSUME AN INDEPENDENT ROLE IN THE ADMINISTRATION AND ENFORCEMENT OF
13 THE STANDARDS FOR A BUILDING OR STRUCTURE THAT IS NOT OWNED OR
14 OPERATED BY THE STATE.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 83B, §§ 6-406 and 6-402(e)(3) and (h).

17 In subsection (a)(1) of this section, the reference to the "Maryland
18 Plumbing Act" is added for clarity. Similarly, in subsection (a)(2) of this
19 section, the reference to the "Maryland Heating, Ventilation,
20 Air-Conditioning, and Refrigeration Contractors Act" is added.

21 In subsection (a)(3) of this section, the phrase "for elevator safety" is added
22 for clarity.

23 In subsection (a)(5) of this section, the reference to the Energy Code
24 "defined" under the Energy Conservation Building Standards Act is
25 substituted for the former reference to the Energy Code "required" under
26 that law because the Energy Code is not required under that Act. The
27 Energy Code is part of the Maryland Building Performance Standards, so
28 the Energy Code is required under this subtitle, not the Energy
29 Conservation Building Standards Act.

30 In subsection (c) of this section, the former phrase "within the State, a
31 county, or municipality" is deleted as surplusage.

32 The Public Safety Article Review Committee notes, for consideration by the
33 General Assembly, that the State Fire Marshal, not the State Fire
34 Prevention Commission, enforces the Electrical Code referenced in
35 subsection (a)(4) of this section. Similarly, the Public Safety Article Review
36 Committee notes that local jurisdictions, not the Public Service
37 Commission, enforce the Energy Code referenced in subsection (a)(5) of
38 this section.

1 Defined terms: "Building" § 12-501

2 "County" § 1-101

3 "Standards" § 12-501

4 "Structure" § 12-501

5 12-503. MARYLAND BUILDING PERFORMANCE STANDARDS.

6 (A) ADOPTION REQUIRED.

7 (1) THE DEPARTMENT SHALL ADOPT BY REGULATION, AS THE
8 MARYLAND BUILDING PERFORMANCE STANDARDS, THE INTERNATIONAL BUILDING
9 CODE WITH THE MODIFICATIONS INCORPORATED BY THE DEPARTMENT UNDER
10 SUBSECTION (B) OF THIS SECTION.

11 (2) THE DEPARTMENT SHALL ADOPT EACH SUBSEQUENT VERSION OF
12 THE STANDARDS WITHIN 12 MONTHS AFTER IT IS ISSUED.

13 (B) MODIFICATIONS TO INTERNATIONAL BUILDING CODE.

14 (1) BEFORE ADOPTING EACH VERSION OF THE STANDARDS, THE
15 DEPARTMENT SHALL:

16 (I) REVIEW THE INTERNATIONAL BUILDING CODE TO DETERMINE
17 WHETHER MODIFICATIONS SHOULD BE INCORPORATED IN THE STANDARDS;

18 (II) ACCEPT WRITTEN COMMENTS;

19 (III) CONSIDER ANY COMMENTS RECEIVED; AND

20 (IV) HOLD A PUBLIC HEARING ON EACH PROPOSED MODIFICATION.

21 (2) THE DEPARTMENT MAY NOT ADOPT, AS PART OF THE STANDARDS, A
22 MODIFICATION OF A BUILDING CODE REQUIREMENT THAT IS MORE STRINGENT
23 THAN THE REQUIREMENT IN THE INTERNATIONAL BUILDING CODE.

24 (C) APPLICABILITY.

25 THE STANDARDS APPLY TO EACH BUILDING OR STRUCTURE IN THE STATE FOR
26 WHICH A BUILDING PERMIT APPLICATION IS RECEIVED BY A LOCAL JURISDICTION
27 ON OR AFTER AUGUST 1, 1995.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 83B, §§ 6-403 and 6-402(a), (b)(2), and (c)(1).

30 In the introductory language of subsection (b)(1) of this section, the
31 reference to adopting "each version of the Standards" is substituted for the
32 former reference to adopting "the Maryland Building Performance
33 Standards or any subsequent versions of the Standards" because the initial
34 version of the Standards has already been adopted.

35 In subsection (b)(1)(iii) of this section, the former phrase "before adopting

1 the Maryland Building Performance Standards" is deleted as redundant of
2 the introductory language to subsection (b) of this section.

3 In subsection (c) of this section, the former phrase "[e]xcept as otherwise
4 provided in this subsection" is deleted as unnecessary because there are no
5 exceptions to this provision.

6 Former Art. 83B, § 6-402(b)(1), which required the Department to adopt
7 the initial version of the Standards on or before August 1, 1994, is deleted
8 as obsolete.

9 Former Art. 83B, §§ 6-401(i) and 6-402(c)(2), (3), (4), and (5), which
10 provided effective dates in 1992 and 1993 for implementation of the
11 Standards, required the Department to provide funding to implement the
12 Standards, and defined relevant terms, are transferred to the Session
13 Laws. These provisions are obsolete because the effective dates for
14 implementation of the Standards have passed, and the Department
15 confirms that all local jurisdictions have implemented the Standards.
16 These dates, however, have historical significance, *e.g.*, providing
17 information as to whether an existing building or structure was subject to
18 the Standards at the time of building permit application. The provisions,
19 therefore, are transferred to the Session Laws.

20 Defined terms: "Building" § 12-501

21 "Department" § 12-501

22 "International Building Code" § 12-501

23 "Local jurisdiction" § 12-501

24 "Standards" § 12-501

25 "Structure" § 12-501

26 12-504. LOCAL AMENDMENTS TO STANDARDS.

27 (A) AUTHORITY TO ADOPT.

28 A LOCAL JURISDICTION MAY ADOPT LOCAL AMENDMENTS TO THE STANDARDS
29 IF THE LOCAL AMENDMENTS DO NOT PROHIBIT THE MINIMUM IMPLEMENTATION
30 AND ENFORCEMENT ACTIVITIES SET FORTH IN § 12-505 OF THIS SUBTITLE.

31 (B) APPLICABILITY.

32 IF A LOCAL JURISDICTION ADOPTS A LOCAL AMENDMENT TO THE STANDARDS,
33 THE STANDARDS AS AMENDED BY THE LOCAL JURISDICTION APPLY IN THE LOCAL
34 JURISDICTION.

35 (C) CONFLICT WITH STANDARDS.

36 IF A LOCAL AMENDMENT CONFLICTS WITH THE STANDARDS, THE LOCAL
37 AMENDMENT PREVAILS IN THE LOCAL JURISDICTION.

38 (D) ADOPTED IN ACCORDANCE WITH LOCAL LAW.

1 A LOCAL JURISDICTION THAT ADOPTS A LOCAL AMENDMENT TO THE
2 STANDARDS SHALL ENSURE THAT THE LOCAL AMENDMENT IS ADOPTED IN
3 ACCORDANCE WITH APPLICABLE LOCAL LAW.

4 (E) COPY OF AMENDMENTS.

5 TO KEEP THE DATABASE ESTABLISHED UNDER THIS SUBTITLE CURRENT, A
6 LOCAL JURISDICTION THAT ADOPTS A LOCAL AMENDMENT TO THE STANDARDS
7 SHALL PROVIDE A COPY OF THE LOCAL AMENDMENT TO THE DEPARTMENT:

8 (1) AT LEAST 15 DAYS BEFORE THE EFFECTIVE DATE OF THE
9 AMENDMENT; OR

10 (2) WITHIN 5 DAYS AFTER THE ADOPTION OF AN EMERGENCY LOCAL
11 AMENDMENT.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 83B, § 6-402(d).

14 In subsection (d) of this section, the former reference to "regulations" is
15 deleted as included in the general reference to "local law".

16 Defined terms: "Department" § 12-501

17 "Local jurisdiction" § 12-501

18 "Standards" § 12-501

19 12-505. IMPLEMENTATION AND ENFORCEMENT OF STANDARDS.

20 (A) IN GENERAL.

21 (1) EACH LOCAL JURISDICTION SHALL IMPLEMENT AND ENFORCE THE
22 STANDARDS AND ANY LOCAL AMENDMENTS TO THE STANDARDS.

23 (2) AT A MINIMUM, THE LOCAL JURISDICTION SHALL ENSURE THAT
24 IMPLEMENTATION AND ENFORCEMENT OF THE STANDARDS INCLUDES:

25 (I) REVIEW AND ACCEPTANCE OF APPROPRIATE PLANS;

26 (II) ISSUANCE OF BUILDING PERMITS;

27 (III) INSPECTION OF THE WORK AUTHORIZED BY THE BUILDING
28 PERMITS; AND

29 (IV) ISSUANCE OF APPROPRIATE USE AND OCCUPANCY
30 CERTIFICATES.

31 (3) EACH LOCAL JURISDICTION SHALL DETERMINE THE MANNER IN
32 WHICH THE MINIMUM IMPLEMENTATION AND ENFORCEMENT ACTIVITIES OF THIS
33 SUBSECTION ARE CARRIED OUT.

34 (B) RESPONSIBLE COUNTY OR MUNICIPAL CORPORATION.

1 (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE
2 COUNTY IN WHICH A BUILDING OR STRUCTURE IS LOCATED SHALL IMPLEMENT AND
3 ENFORCE THE STANDARDS FOR THAT BUILDING OR STRUCTURE IN ACCORDANCE
4 WITH THIS SUBTITLE.

5 (2) (I) A MUNICIPAL CORPORATION THAT DID NOT ADOPT A BUILDING
6 CODE ON OR BEFORE OCTOBER 1, 1992, MAY ELECT TO IMPLEMENT AND ENFORCE
7 THE STANDARDS IN ACCORDANCE WITH THIS SUBTITLE FOR BUILDINGS OR
8 STRUCTURES LOCATED IN THE MUNICIPAL CORPORATION.

9 (II) IF A MUNICIPAL CORPORATION ELECTS TO IMPLEMENT AND
10 ENFORCE THE STANDARDS UNDER THIS PARAGRAPH, THE COUNTY IN WHICH THE
11 MUNICIPAL CORPORATION IS LOCATED IS NOT RESPONSIBLE FOR IMPLEMENTATION
12 AND ENFORCEMENT OF THE STANDARDS IN THE MUNICIPAL CORPORATION.

13 (3) A COUNTY THAT DID NOT ADOPT A BUILDING CODE ON OR BEFORE
14 OCTOBER 1, 1992, SHALL IMPLEMENT AND ENFORCE THE STANDARDS IN THE
15 COUNTY UNLESS IT ELECTS TO NEGOTIATE WITH A MUNICIPAL CORPORATION IN
16 THE COUNTY TO HAVE THE MUNICIPAL CORPORATION IMPLEMENT AND ENFORCE
17 THE STANDARDS IN THE COUNTY.

18 (4) A MUNICIPAL CORPORATION THAT ADOPTED A BUILDING CODE ON
19 OR BEFORE OCTOBER 1, 1992, SHALL IMPLEMENT AND ENFORCE THE STANDARDS IN
20 THE MUNICIPAL CORPORATION UNLESS IT ELECTS TO NEGOTIATE WITH THE
21 COUNTY IN WHICH THE MUNICIPAL CORPORATION IS LOCATED TO HAVE THE
22 COUNTY IMPLEMENT AND ENFORCE THE STANDARDS IN THE MUNICIPAL
23 CORPORATION.

24 (C) FEES.

25 A LOCAL JURISDICTION MAY CHARGE FEES NECESSARY TO COVER THE COST OF
26 IMPLEMENTATION AND ENFORCEMENT OF THE STANDARDS AND ANY LOCAL
27 AMENDMENTS TO THE STANDARDS.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 83B, § 6-402(f), (g), and (e)(1) and (2).

30 In subsection (a)(1) of this section, the former phrase "[i]n accordance with
31 the provisions of subsection (c) of this section" is deleted as surplusage.

32 Also in subsection (a)(1) of this section, the former phrase "if adopted by
33 the local jurisdiction" is deleted as implicit.

34 Throughout subsection (b) of this section, the reference to a "municipal
35 corporation" is substituted for the former reference to a "municipality" to
36 conform to Md. Constitution, Art. XI-E.

37 In subsection (b)(1) and (2) of this section, the reference to a "building[s]" is
38 added for consistency throughout this subtitle. The Public Safety Article
39 Review Committee notes these additions for consideration by the General

1 Assembly.

2 Defined terms: "Building" § 12-501

3 "County" § 1-101

4 "Local jurisdiction" § 12-501

5 "Standards" § 12-501

6 "Structure" § 12-501

7 12-506. CENTRAL AUTOMATED DATABASE.

8 (A) IN GENERAL.

9 THE DEPARTMENT SHALL MAINTAIN A CENTRAL AUTOMATED DATABASE IN
10 ACCORDANCE WITH THIS SECTION.

11 (B) CONTENTS.

12 (1) AT A MINIMUM, THE DEPARTMENT SHALL INCLUDE IN THE
13 DATABASE:

14 (I) THE STANDARDS;

15 (II) LOCAL AMENDMENTS TO THE STANDARDS;

16 (III) THE STATE FIRE PREVENTION CODE ADOPTED BY THE STATE
17 FIRE PREVENTION COMMISSION UNDER TITLE 6 OF THIS ARTICLE;

18 (IV) FIRE PREVENTION CODES ADOPTED BY LOCAL JURISDICTIONS;

19 (V) THE ELECTRICAL CODE REQUIRED UNDER SUBTITLE 6 OF THIS
20 TITLE;

21 (VI) LOCAL AMENDMENTS TO THE ELECTRICAL CODE;

22 (VII) THE ENERGY CODE DEFINED UNDER THE ENERGY
23 CONSERVATION BUILDING STANDARDS ACT, TITLE 7, SUBTITLE 4 OF THE PUBLIC
24 UTILITY COMPANIES ARTICLE;

25 (VIII) LOCAL CODE PROVISIONS THAT ARE MORE RESTRICTIVE
26 THAN THE ENERGY CODE DEFINED UNDER THE ENERGY CONSERVATION BUILDING
27 STANDARDS ACT;

28 (IX) INFORMATION COMPILED BY THE DEPARTMENT UNDER
29 PARAGRAPH (2) OF THIS SUBSECTION;

30 (X) THE MARYLAND BUILDING REHABILITATION CODE;

31 (XI) LOCAL AMENDMENTS TO THE MARYLAND BUILDING
32 REHABILITATION CODE; AND

1 (XII) PROPOSED FEDERAL OR STATE LEGISLATION OF WHICH THE
2 DEPARTMENT IS AWARE AND THAT DIRECTLY AFFECTS THE CONSTRUCTION
3 INDUSTRY.

4 (2) THE DEPARTMENT MAY COMPILE AND INCLUDE IN THE DATABASE:

5 (I) ANY INFORMATION PROVIDED BY A LOCAL JURISDICTION ON
6 THE IMPLEMENTATION AND INTERPRETATION OF THE STANDARDS BY THE LOCAL
7 JURISDICTION; AND

8 (II) INTERIM AMENDMENTS TO THE INTERNATIONAL BUILDING
9 CODE INCLUDING SUBSEQUENT PRINTINGS OF THE MOST RECENT EDITION.

10 (C) OTHER DUTIES OF DEPARTMENT.

11 THE DEPARTMENT SHALL:

12 (1) MAKE INFORMATION FROM THE DATABASE AVAILABLE TO A LOCAL
13 JURISDICTION, STATE UNIT, OR OTHER INTERESTED PARTY;

14 (2) PROVIDE EACH LOCAL JURISDICTION WITH THE NECESSARY
15 HARDWARE OR SOFTWARE TO ENABLE THE LOCAL JURISDICTION TO ACCESS THE
16 INFORMATION IN THE DATABASE; AND

17 (3) COORDINATE WITH LOCAL BUILDING OFFICIALS, THE STATE FIRE
18 MARSHAL, AND LOCAL FIRE OFFICIALS IN COMPILING INFORMATION FOR THE
19 DATABASE.

20 (D) FEES FOR INFORMATION FROM DATABASE.

21 (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
22 PARAGRAPH, THE DEPARTMENT MAY CHARGE A FEE FOR INFORMATION PROVIDED
23 FROM THE DATABASE.

24 (II) THE DEPARTMENT MAY NOT CHARGE A FEE TO A STATE UNIT
25 OR LOCAL JURISDICTION.

26 (2) THE DEPARTMENT MAY NOT CHARGE A FEE TO A LOCAL
27 JURISDICTION FOR THE ONGOING MAINTENANCE OF THE DATABASE.

28 (3) FEES COLLECTED IN ACCORDANCE WITH THIS SUBSECTION
29 UNEXPENDED AT THE END OF THE FISCAL YEAR DO NOT REVERT TO THE GENERAL
30 FUND, BUT SHALL BE KEPT IN A SPECIAL FUND AVAILABLE TO THE DEPARTMENT TO
31 CARRY OUT THIS SUBTITLE.

32 (E) AMENDMENTS TO LOCAL CODES.

33 (1) A LOCAL JURISDICTION SHALL PROVIDE TO THE DEPARTMENT A
34 COPY OF EACH AMENDMENT TO THE LOCAL JURISDICTION'S FIRE PREVENTION
35 CODE OR ELECTRICAL CODE WITHIN 15 DAYS AFTER THE EFFECTIVE DATE OF THE
36 AMENDMENT.

1 (2) A LOCAL JURISDICTION SHALL PROVIDE TO THE DEPARTMENT A
2 COPY OF EACH AMENDMENT TO THE LOCAL JURISDICTION'S ENERGY CODE THAT IS
3 MORE RESTRICTIVE THAN THE ENERGY CODE DEFINED UNDER THE ENERGY
4 CONSERVATION BUILDING STANDARDS ACT WITHIN 15 DAYS AFTER THE EFFECTIVE
5 DATE OF THE AMENDMENT.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 83B, §§ 6-404, 6-401(j), and 6-405(a)(1) and (3)
8 and (b)(1).

9 Throughout this section, references to a "database" are substituted for the
10 former references to a "data base" for consistency throughout this subtitle
11 and to conform to current drafting style.

12 In subsection (a) of this section, the former reference to the requirement to
13 "establish" a database is deleted as obsolete because the database is
14 already established.

15 In subsection (b)(1)(iii) of this section, the former reference to "any
16 amendments" to the State Fire Prevention Code is deleted as unnecessary
17 because any amendments adopted by the State Fire Prevention
18 Commission become part of the State Fire Prevention Code. Similarly, in
19 subsection (b)(1)(iv) of this section, the former reference to "any
20 amendments" to the local fire prevention codes is deleted because any
21 amendments adopted by the local jurisdiction become part of the local fire
22 prevention code.

23 In subsections (b)(1)(iv), (c)(1), and (d)(1)(ii) and (2) of this section, the
24 defined term "local jurisdiction" is substituted for the former references to
25 a "count[y]" and "municipalit[y]" for consistency throughout the
26 subsection.

27 In subsections (b)(1)(iv) and (e)(1) of this section, the reference to the fire
28 "prevention" code is added for clarity.

29 In subsection (b)(1)(vii) and (viii) of this section, the word "defined" is
30 substituted for the former reference to "required" for clarity. *See* Revisor's
31 Note to § 12-502 of this subtitle.

32 In subsection (c)(2) of this section, the former reference to "purchase or
33 otherwise" provide hardware or software is deleted as surplusage.

34 In subsection (d)(2) of this section, the former reference to a fee "to cover or
35 support" the ongoing maintenance is deleted as surplusage.

36 Subsection (e) of this section is revised to reflect that, according to the
37 Department, all local jurisdictions have satisfied the requirements of
38 former Art. 83B, § 6-404(c)(1), (d)(1), and (e)(1) to provide copies of their
39 local fire codes on or before December 31, 1993, and to provide local
40 amendments to the Electrical Codes and local code provisions that are

1 more restrictive than the Energy Code on or before January 1, 1997. The
2 on-going requirements imposed by former Art. 83B, § 6-404(c)(2), (d)(2),
3 and (e)(2) are combined into one revised subsection for brevity.

4 Defined terms: "County" § 1-101

5 "Department" § 12-501

6 "International Building Code" § 12-501

7 "Local jurisdiction" § 12-501

8 "Standards" § 12-501

9 12-507. OTHER POWERS AND DUTIES OF DEPARTMENT.

10 (A) POWERS.

11 THE DEPARTMENT MAY:

12 (1) DEVELOP A VOLUNTARY FORUM THAT MAY BE USED, ON REQUEST
13 OF A LOCAL JURISDICTION, TO RESOLVE CONFLICTS THAT INVOLVE THE
14 STANDARDS; AND

15 (2) ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

16 (B) DUTIES.

17 THE DEPARTMENT:

18 (1) SHALL NOTIFY EACH LOCAL JURISDICTION OF EACH CHANGE TO
19 THE INTERNATIONAL BUILDING CODE AND THE IMPACT THE CHANGE WILL HAVE ON
20 THE LOCAL AMENDMENTS IN THAT LOCAL JURISDICTION;

21 (2) IN CONJUNCTION WITH THE MARYLAND BUILDING OFFICIALS
22 ASSOCIATION AND OTHER INTERESTED ORGANIZATIONS, SHALL PROVIDE TRAINING
23 FOR LOCAL BUILDING OFFICIALS ON THE STANDARDS AND CERTIFY THE
24 PARTICIPATION OF LOCAL BUILDING OFFICIALS IN THE TRAINING; AND

25 (3) ON REQUEST, SHALL PROVIDE A LOCAL JURISDICTION WITH
26 TECHNICAL ASSISTANCE TO IMPLEMENT AND ENFORCE THE STANDARDS.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 83B, § 6-405(a)(2), (4), and (5) and (b)(2) and (3).

29 Defined terms: "Department" § 12-501

30 "International Building Code" § 12-501

31 "Local jurisdiction" § 12-501

32 "Standards" § 12-501

SUBTITLE 6. ELECTRICAL CODE.

1

2 12-601. DEFINITIONS.

3 (A) IN GENERAL.

4 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

5 REVISOR'S NOTE: This subsection is new language added as the standard
6 introductory language to a definition section.

7 (B) AUTHORIZED ELECTRICAL INSPECTION AGENCY.

8 "AUTHORIZED ELECTRICAL INSPECTION AGENCY" MEANS A
9 NONGOVERNMENTAL ORGANIZATION APPROVED BY THE STATE FIRE MARSHAL TO
10 INSPECT ELECTRICAL INSTALLATIONS FOR CONFORMITY WITH THE NATIONAL
11 ELECTRICAL CODE OR A LOCAL CODE.

12 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 59(a)(2).

13 The reference to a "nongovernmental" organization is added for clarity.

14 The only other changes are in style.

15 Defined term: "Electrical installation" § 12-601

16 (C) ELECTRICAL INSTALLATION.

17 "ELECTRICAL INSTALLATION" MEANS ANY INSTALLED:

18 (1) ELECTRICAL WIRES OR CONDUCTORS THAT TRANSMIT ELECTRIC
19 CURRENT FOR ELECTRIC LIGHT, HEAT, OR POWER PURPOSES;20 (2) MOLDING, DUCT, RACEWAY, OR CONDUIT FOR THE RECEPTION OR
21 PROTECTION OF WIRES OR CONDUCTORS; OR

22 (3) ELECTRICAL MACHINERY, APPARATUS, DEVICE, OR FIXTURE.

23 REVISOR'S NOTE: This subsection formerly was Art. 38A, § 59(a)(1).

24 The only changes are in style.

25 12-602. SCOPE OF SUBTITLE.

26 (A) COUNTIES EXEMPT FROM SUBTITLE.

27 THIS SUBTITLE DOES NOT APPLY TO BALTIMORE COUNTY, CARROLL COUNTY,
28 FREDERICK COUNTY, OR MONTGOMERY COUNTY.

29 (B) PUBLIC UTILITIES.

1 THIS SUBTITLE DOES NOT APPLY TO PUBLIC UTILITIES, THEIR AFFILIATED
2 COMPANIES, AND ELECTRICAL APPLIANCES AND DEVICES USED IN THEIR WORK.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 38A, §§ 63 and 59(b).

5 12-603. ELECTRICAL INSTALLATION TO CONFORM TO CODE.

6 EACH ELECTRICAL INSTALLATION IN THE STATE SHALL CONFORM TO:

7 (1) THE NATIONAL ELECTRICAL CODE; OR

8 (2) THE ELECTRICAL CODE ADOPTED BY THE COUNTY IN WHICH THE
9 ELECTRICAL INSTALLATION IS DONE.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 38A, § 60.

12 In item (2) of this section, the phrase "in which the electrical installation is
13 done" is added for clarity.

14 Also in item (2) of this section, the reference to the "electrical" code is
15 substituted for the former reference to the "electric" code for consistency
16 throughout this subtitle.

17 Defined terms: "County" § 1-101

18 "Electrical installation" § 12-601

19 12-604. CERTIFICATION OF ELECTRICAL INSTALLATION REQUIRED.

20 WITHIN 15 DAYS AFTER COMPLETION, EACH ELECTRICAL INSTALLATION SHALL
21 BE CERTIFIED BY AN AUTHORIZED ELECTRICAL INSPECTION AGENCY OR A
22 GOVERNMENTAL UNIT THAT IS QUALIFIED TO ISSUE ELECTRICAL INSPECTION
23 CERTIFICATES.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 38A, § 61.

26 The defined term "authorized electrical inspection agency" is substituted
27 for the former phrase "nongovernmental approved inspection agency" for
28 clarity and to use the defined term.

29 Defined terms: "Authorized electrical inspection agency" § 12-601

30 "Electrical installation" § 12-601

31 12-605. AUTHORIZED ELECTRICAL INSPECTION AGENCIES.

32 (A) ISSUANCE OF QUALIFICATION CERTIFICATES.

33 (1) THIS SUBSECTION DOES NOT APPLY IN A COUNTY THAT HAS A
34 BOARD OR DEPARTMENT OF ELECTRICAL INSPECTIONS.

1 (2) THE STATE FIRE MARSHAL MAY TEST AND ISSUE A QUALIFICATION
2 CERTIFICATE TO A NONGOVERNMENTAL ORGANIZATION THAT SEEKS TO QUALIFY
3 AS AN AUTHORIZED ELECTRICAL INSPECTION AGENCY.

4 (B) SCOPE OF CERTIFICATE.

5 AN AUTHORIZED ELECTRICAL INSPECTION AGENCY MAY INSPECT ELECTRICAL
6 INSTALLATIONS FOR CONFORMITY WITH THE NATIONAL ELECTRICAL CODE OR A
7 LOCAL ELECTRICAL CODE.

8 (C) STATE FIRE MARSHAL TO REGULATE INSPECTIONS.

9 THE STATE FIRE MARSHAL SHALL REGULATE THE QUALITY AND
10 PERFORMANCE OF INSPECTIONS BY AUTHORIZED ELECTRICAL INSPECTION
11 AGENCIES.

12 REVISOR'S NOTE: Subsections (a) and (c) of this section are new language
13 derived without substantive change from former Art. 38A, § 62.

14 Subsection (b) of this section is new language added for clarity. It is based
15 on the former definition of "authorized electrical inspection agency" in
16 former Art. 38A, § 59(a)(2), which stated that the State Fire Marshal
17 approved organizations to inspect electrical installations for conformity
18 with the National Electrical Code or a local code.

19 In subsection (a)(2) of this section, the former reference to the "Department
20 of State Police" is deleted as surplusage because the State Fire Marshal is
21 the operative entity, not the Department of State Police. The fact that the
22 State Fire Marshal is in the Department of State Police is unnecessary
23 verbiage.

24 The Public Safety Article Review Committee notes, for consideration by the
25 General Assembly, that individuals as well as organizations may be
26 authorized electrical inspection agencies to which qualification certificates
27 may be issued under subsection (a)(2) of this section.

28 Defined terms: "Authorized electrical inspection agency" § 12-601

29 "County" § 1-101

30 "Electrical installation" § 12-601

31 12-606. INSTALLATION OF ELECTRICAL WIRING BY HOMEOWNERS.

32 (A) SCOPE OF SECTION.

33 THIS SECTION APPLIES IN CHARLES COUNTY AND ST. MARY'S COUNTY.

34 (B) IN GENERAL.

1 IN A COUNTY SUBJECT TO THIS SECTION, A HOMEOWNER MAY INSTALL
2 ELECTRICAL WIRING IN A HOME THAT IS TO BE USED AS THE HOMEOWNER'S
3 RESIDENCE SUBJECT TO STANDARDS SET BY THE COUNTY COMMISSIONERS.

4 (C) REGULATIONS.

5 (1) THE COUNTY COMMISSIONERS OF CHARLES COUNTY MAY ADOPT
6 REGULATIONS TO GOVERN THE ISSUANCE OF PERMITS TO HOMEOWNERS UNDER
7 THIS SECTION.

8 (2) THE COUNTY COMMISSIONERS OF ST. MARY'S COUNTY SHALL ADOPT
9 REGULATIONS TO GOVERN THE ISSUANCE OF PERMITS TO HOMEOWNERS UNDER
10 THIS SECTION.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 38A, §§ 65 and 66.

13 In subsection (b) of this section, the former reference to a "personal"
14 residence is deleted as included in the reference to the "homeowner's"
15 residence.

16 Defined term: "County" § 1-101

17 12-607. VIOLATION OF SUBTITLE.

18 (A) PROHIBITED.

19 A PERSON MAY NOT VIOLATE THIS SUBTITLE.

20 (B) PENALTY.

21 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
22 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A
23 FINE NOT EXCEEDING \$500 OR BOTH.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 38A, § 64.

26 Defined term: "Person" § 1-101

27 SUBTITLE 7. MISCELLANEOUS SAFETY PROVISIONS.

28 12-701. EXIT SIGNS IN BUILDINGS WITH THREE OR MORE LEVELS OR FLOORS.

29 (A) REQUIRED.

30 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH
31 ELEVATOR AND EACH STAIRWAY IN A BUILDING WITH THREE OR MORE LEVELS OR
32 FLOORS SHALL INDICATE CLEARLY BY SIGN OR OTHERWISE WHICH LEVELS OR
33 FLOORS ARE MOST ACCESSIBLE TO THE EXITS OF THE BUILDING.

1 (2) THIS REQUIREMENT DOES NOT APPLY TO AN ELEVATOR OR
2 STAIRWAY IN A DWELLING FOR THE PERSONAL USE OF A FAMILY.

3 (B) PROHIBITED ACT; PENALTY.

4 THE OWNER OF A BUILDING SUBJECT TO THIS SECTION WHO VIOLATES THIS
5 SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE
6 NOT EXCEEDING \$50.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 27, § 120C.

9 In subsection (a)(1) of this section, the introductory phrase "[e]xcept as
10 provided in paragraph (2) of this subsection" is added to clarify that an
11 exception exists.

12 Also in subsection (a)(1) of this section, the former word "located" is deleted
13 as surplusage.

14 In subsection (b) of this section, the reference to a "building subject to this
15 section" is substituted for the former reference to a "structure" for
16 consistency with terminology used in subsection (a)(1) of this section.

17 12-702. EMERGENCY POWER AND LIGHTING SYSTEMS FOR BUILDINGS.

18 (A) DEFINITIONS.

19 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
20 INDICATED.

21 (2) "COMMISSION" MEANS THE STATE FIRE PREVENTION COMMISSION.

22 (3) "NFPA 70" MEANS THE MOST RECENT EDITION OF THE NATIONAL
23 ELECTRICAL CODE ADOPTED BY THE COMMISSION.

24 (4) "NFPA 101" MEANS THE MOST RECENT EDITION OF THE NATIONAL
25 LIFE SAFETY CODE ADOPTED BY THE COMMISSION.

26 (B) APPLICABILITY IN BALTIMORE CITY.

27 (1) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE, THIS
28 SECTION APPLIES IN BALTIMORE CITY.

29 (2) IN BALTIMORE CITY, THE BALTIMORE CITY FIRE DEPARTMENT
30 SHALL ENFORCE THIS SECTION.

31 (3) IN BALTIMORE CITY, APPEALS CONCERNING THIS SECTION SHALL BE
32 MADE TO THE BALTIMORE CITY FIRE BOARD.

33 (C) EMERGENCY POWER AND LIGHTING REQUIRED.

1 (1) THIS SUBSECTION APPLIES TO:

2 (I) A PUBLIC BUILDING OR STRUCTURE OWNED BY THE STATE OR
3 A SUBDIVISION OF THE STATE; AND

4 (II) A HOTEL, APARTMENT BUILDING, LODGING HOUSE, HOSPITAL,
5 NURSING HOME, DORMITORY, OR EDUCATIONAL BUILDING WITH:

6 1. A POTENTIAL EVENING OCCUPANCY OF MORE THAN 25
7 INDIVIDUALS; AND

8 2. AT LEAST 4 STORIES, EXCLUDING ATTICS AND
9 BASEMENTS.

10 (2) EACH BUILDING OR STRUCTURE SUBJECT TO THIS SUBSECTION
11 SHALL BE EQUIPPED WITH ADEQUATE EMERGENCY POWER AND LIGHTING IN
12 ACCORDANCE WITH NFPA 101.

13 (D) POWER SOURCE FOR EMERGENCY SYSTEM.

14 THE EMERGENCY ELECTRICAL POWER SUPPLY SYSTEM REQUIRED BY THIS
15 SECTION MAY BE POWERED BY GENERATORS, BATTERY PACKS, OR OTHER SIMILAR
16 DEVICES AT THE DISCRETION OF THE OWNER OF THE BUILDING OR STRUCTURE.

17 (E) DUTIES OF COMMISSION.

18 (1) THE COMMISSION SHALL ADMINISTER THIS SECTION.

19 (2) THE COMMISSION SHALL ADOPT REGULATIONS TO ENFORCE THIS
20 SECTION, INCLUDING REGULATIONS THAT REQUIRE:

21 (I) EMERGENCY ELECTRICAL SYSTEMS IN ACCORDANCE WITH
22 NFPA 101, TO PROVIDE SUFFICIENT LIGHT IN HALLS, CORRIDORS, AND STAIRWAYS
23 DURING OUTAGES OR BLOCKAGES OF REGULAR SERVICES TO FACILITATE THE
24 MOVEMENT OF INDIVIDUALS IN THE EVENT OF AN EMERGENCY;

25 (II) SUFFICIENT EXIT SIGNS THAT ARE ADEQUATELY LIGHTED TO
26 GUIDE INDIVIDUALS ON THE PREMISES;

27 (III) SUFFICIENT EMERGENCY ELECTRICAL POWER TO OPERATE
28 ELEVATORS, ELECTRICAL FACILITIES IN HOSPITAL OPERATING ROOMS, HOSPITAL
29 X-RAY EQUIPMENT, AND OTHER EMERGENCY EQUIPMENT THAT ARE NECESSARY TO
30 THE PROPER OPERATION OF MEDICAL SERVICES IN HOSPITALS AND NURSING
31 HOMES;

32 (IV) ADEQUATE EMERGENCY ELECTRIC LIGHTING IN ACCORDANCE
33 WITH NFPA 101 IN EACH BUILDING FOR COMMERCIAL, MERCANTILE, INDUSTRIAL,
34 STORAGE, OFFICE, OR SIMILAR PURPOSES IF THE BUILDING IS AT LEAST 4 STORIES,
35 EXCLUDING ATTICS AND BASEMENTS, AND EVENING OCCUPANCY IS MORE THAN 25
36 INDIVIDUALS; AND

1 (V) INSTALLATION AND OPERATION OF EMERGENCY POWER AND
2 LIGHTING IN ACCORDANCE WITH NFPA 101 AND NFPA 70.

3 (3) (I) FOR PURPOSES OF PARAGRAPH (2)(III) OF THIS SUBSECTION,
4 THE COMMISSION SHALL CONSULT WITH THE SECRETARY OF HEALTH AND MENTAL
5 HYGIENE TO EVALUATE THE REQUIREMENTS TO BE ADOPTED FOR THE OPERATION
6 OF HOSPITALS AND NURSING HOMES.

7 (II) IN MAKING THIS EVALUATION, THE SECRETARY OF HEALTH
8 AND MENTAL HYGIENE SHALL CONSIDER THE SIZE AND NATURE OF THE
9 PARTICULAR HOSPITAL OR NURSING HOME OPERATION.

10 (F) ENFORCEMENT BY STATE FIRE MARSHAL.

11 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE STATE FIRE
12 MARSHAL SHALL ENFORCE THIS SECTION AND THE REGULATIONS ADOPTED BY THE
13 COMMISSION SO THAT INDIVIDUALS ON THE PREMISES ARE REASONABLY
14 PROTECTED IN THE EVENT OF AN EMERGENCY.

15 (G) PENALTY.

16 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
17 ON CONVICTION IS SUBJECT TO THE PENALTIES OF § 6-601 OF THIS ARTICLE.

18 REVISOR'S NOTE: Subsection (a)(1) of this section is new language added as
19 the standard introductory language to a definition subsection.

20 Subsection (a)(2) of this section is new language added to avoid repetition
21 of the full title of the "State Fire Prevention Commission".

22 Subsection (a)(3) of this section is new language added to avoid repetition
23 of the phrase "NFPA 70 (the National Electrical Code)".

24 Subsection (a)(4) of this section is new language added to avoid repetition
25 of the phrase "NFPA 101 (the National Life Safety Code)".

26 Subsections (b) through (g) of this section are new language derived
27 without substantive change from former Art. 38A, § 58.

28 Throughout this section, the reference to "individuals" is substituted for
29 the former reference to "persons" because individuals, and not the other
30 entities included in the defined term "person" occupy buildings. *See* §
31 1-101 of this article for the definition of "person".

32 In subsection (a)(3) and (4) of this section, the references to the "most
33 recent edition" of the National Electrical Code and the Life Safety Code,
34 respectively, "adopted by the Commission" are added for accuracy. This
35 conforms to the practice of the State Fire Prevention Commission.

36 In subsection (b)(1) of this section, the reference to "this article" is retained

1 in the revision although the Public Safety Article includes provisions from
2 articles in addition to former Article 38A. No substantive change is
3 intended.

4 In the introductory language of subsection (e)(2) and in subsection (f) of
5 this section, the former reference to "rules" is deleted because the State
6 Fire Prevention Commission adopts regulations. *See* § 6-206 of this article.

7 Defined term: "Person" § 1-101

8 12-703. USE OF WELDED "CLIP-TYPE" CONNECTORS AS TEMPORARY FASTENING
9 DEVICES.

10 (A) PROHIBITED.

11 A PERSON MAY NOT USE WELDED CLIP AND SEAT TYPE CONNECTIONS OR
12 OTHER WELDED "CLIP-TYPE" CONNECTORS AS TEMPORARY FASTENING DEVICES IN
13 CONSTRUCTION THAT INVOLVES THE USE OF STRUCTURAL IRON OR STEEL.

14 (B) PENALTY.

15 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
16 ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$100 FOR EACH VIOLATION.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 48, § 116.

19 In subsection (a) of this section, the former date "September 1, 1971" is
20 deleted as obsolete.

21 Defined term: "Person" § 1-101

22 12-704. USE OF STRUCTURAL IRON OR STEEL BEAMS OR GIRDERS WITH STUDS OR
23 REINFORCING SHEAR CONNECTORS.

24 (A) PROHIBITED.

25 A PERSON MAY NOT ERECT STRUCTURAL STEEL OR IRON BEAMS OR GIRDERS
26 WITH SHEAR COMPOSITE STUDS, OTHER STUDS, OR REINFORCING SHEAR
27 CONNECTORS, UNLESS THESE DEVICES ARE ATTACHED AFTER THE ERECTION IS
28 COMPLETED OF ALL STRUCTURAL MEMBERS OR FORMING OR DECKING OF A
29 PARTICULAR FLOOR OR DECK LEVEL OR SPAN OF A BRIDGE OR AREA BETWEEN
30 TRANSVERSE FLOOR BEAMS.

31 (B) PENALTY.

32 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
33 ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$100 FOR EACH VIOLATION.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 48, § 117.

1 %In subsection (a) of this section, the former date "September 1, 1971" is
2 deleted as obsolete.

3 Defined term: "Person" § 1-101

4 SUBTITLE 8. ELEVATOR SAFETY.

5 PART I. DEFINITIONS.

6 12-801. DEFINITIONS.

7 (A) IN GENERAL.

8 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

9 REVISOR'S NOTE: This subsection is new language derived without
10 substantive change from former Art. 89, § 49C(a)(1) and the introductory
11 phrase of § 49B(b).

12 It is restated in the standard language used as introductory language to a
13 definition section.

14 The reference to this "subtitle" is substituted for the former reference in
15 former § 49C to this "section" to extend the applicability of the definitions
16 not only to Part III of this subtitle, which revises former § 49C, but to the
17 entire subtitle. No substantive change is intended.

18 (B) BOARD.

19 "BOARD" MEANS THE ELEVATOR SAFETY REVIEW BOARD.

20 REVISOR'S NOTE: This subsection formerly was Art. 89, § 49C(a)(2).

21 No changes are made.

22 Defined term: "Elevator" § 12-801

23 (C) CERTIFICATE.

24 "CERTIFICATE" MEANS A CERTIFICATE OF REGISTRATION AND INSPECTION
25 ISSUED BY THE COMMISSIONER TO OPERATE AN ELEVATOR UNIT.

26 REVISOR'S NOTE: This subsection formerly was Art. 89, § 49B(b)(5).

27 The only changes are in style.

28 Defined terms: "Commissioner" § 12-801

29 "Elevator unit" § 12-801

30 (D) COMMISSIONER.

1 "COMMISSIONER" MEANS THE COMMISSIONER OF LABOR AND INDUSTRY OR AN
2 AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER OF LABOR AND INDUSTRY.

3 REVISOR'S NOTE: This subsection formerly was Art. 89, § 49B(b)(10).

4 The only changes are in style.

5 (E) DUMBWAITER.

6 "DUMBWAITER" MEANS A HOISTING AND LOWERING MACHINE EQUIPPED WITH
7 A CAR OF LIMITED CAPACITY AND SIZE THAT MOVES IN GUIDES IN A SUBSTANTIALLY
8 VERTICAL DIRECTION AND IS USED EXCLUSIVELY FOR CARRYING MATERIAL.

9 REVISOR'S NOTE: This subsection formerly was Art. 89, § 49B(b)(2).

10 The reference to a hoisting and lowering "machine" is substituted for the
11 former reference to a "mechanism" for consistency with the definition of
12 "elevator" in subsection (f) of this section.

13 The only other changes are in style.

14 (F) ELEVATOR.

15 "ELEVATOR" MEANS A HOISTING AND LOWERING MACHINE EQUIPPED WITH A
16 CAR OR PLATFORM THAT MOVES IN GUIDES IN A SUBSTANTIALLY VERTICAL
17 DIRECTION AND SERVES TWO OR MORE FLOORS OF A BUILDING OR STRUCTURE.

18 REVISOR'S NOTE: This subsection is new language derived without
19 substantive change from the first clause of former Art. 89, § 49B(b)(1).

20 The reference to a hoisting "and" lowering machine is substituted for the
21 former reference to a hoisting "or" lowering machine because an elevator
22 hoists and lowers.

23 The second clause of former Art. 89, § 49B(b)(1), which referred to the term
24 "elevator" as including "dumbwaiters, escalators, and moving walks", is
25 deleted for clarity and accuracy. Throughout the former law, the phrase
26 "elevators, dumbwaiters, escalators, and moving walks" was used if the
27 provision applied to each of these devices. The former reference to the term
28 "elevator" as including all these devices was therefore unnecessary. In
29 addition, the former reference was potentially misleading because there
30 were provisions in the former law that applied only to elevators, and the
31 "includes" definition literally extended those provisions to dumbwaiters,
32 escalators, and moving walks as well. In the revision, if a provision applies
33 to elevators, dumbwaiters, escalators, and moving walks, the provision
34 explicitly so states.

35 (G) ELEVATOR CONTRACTOR.

1 "ELEVATOR CONTRACTOR" MEANS A PERSON WHO IS ENGAGED IN THE
2 BUSINESS OF ERECTING, CONSTRUCTING, WIRING, ALTERING, REPLACING,
3 MAINTAINING, REPAIRING, DISMANTLING, OR SERVICING ELEVATOR UNITS.

4 REVISOR'S NOTE: This subsection formerly was Art. 89, § 49C(a)(4).

5 The only changes are in style.

6 Defined terms: "Elevator unit" § 12-801

7 "Person" § 1-101

8 (H) ELEVATOR MECHANIC.

9 "ELEVATOR MECHANIC" MEANS A PERSON WHO IS ENGAGED IN ERECTING,
10 CONSTRUCTING, WIRING, ALTERING, REPLACING, MAINTAINING, REPAIRING,
11 DISMANTLING, OR SERVICING ELEVATOR UNITS.

12 REVISOR'S NOTE: This subsection formerly was Art. 89, § 49C(a)(5).

13 The only changes are in style.

14 Defined terms: "Elevator unit" § 12-801

15 "Person" § 1-101

16 (I) ELEVATOR UNIT.

17 "ELEVATOR UNIT" INCLUDES AN ELEVATOR, ESCALATOR, DUMBWAITER, AND
18 MOVING WALK.

19 REVISOR'S NOTE: This subsection is new language added to avoid repetition
20 of the lengthy phrase "elevator, escalator, dumbwaiter, and moving walk".

21 Defined terms: "Dumbwaiter" § 12-801

22 "Elevator" § 12-801

23 "Escalator" § 12-801

24 "Moving walk" § 12-801

25 (J) ESCALATOR.

26 "ESCALATOR" MEANS A POWER DRIVEN, INCLINED, CONTINUOUS STAIRWAY
27 USED FOR RAISING AND LOWERING PASSENGERS.

28 REVISOR'S NOTE: This subsection formerly was Art. 89, § 49B(b)(3).

29 No changes are made.

30 (K) LICENSE.

31 "LICENSE" INCLUDES:

32 (1) AN ELEVATOR CONTRACTOR LICENSE; AND

1 (2) AN ELEVATOR MECHANIC LICENSE.

2 REVISOR'S NOTE: This subsection formerly was Art. 89, § 49C(a)(6).

3 The only changes are in style.

4 Defined terms: "Elevator contractor" § 12-801

5 "Elevator mechanic" § 12-801

6 (L) MOVING WALK.

7 "MOVING WALK" MEANS A TYPE OF PASSENGER-CARRYING DEVICE ON WHICH
8 PASSENGERS STAND OR WALK AND IN WHICH THE PASSENGER-CARRYING SURFACE
9 REMAINS PARALLEL TO ITS DIRECTION OF MOTION AND IS UNINTERRUPTED.

10 REVISOR'S NOTE: This subsection formerly was Art. 89, § 49B(b)(4).

11 No changes are made.

12 (M) SAFETY CODE.

13 "SAFETY CODE" MEANS THE AMERICAN NATIONAL STANDARD/AMERICAN
14 SOCIETY OF MECHANICAL ENGINEERS SAFETY CODE FOR ELEVATORS,
15 DUMBWAITERS, ESCALATORS, AND MOVING WALKS, KNOWN AS ANSI A17.1-1971, AND
16 ALL SUBSEQUENT AMENDMENTS AND REVISIONS TO IT, AS ADOPTED BY THE
17 COMMISSIONER.

18 REVISOR'S NOTE: This subsection is new language added as a shorthand way
19 to avoid repetition of the longer reference to the "American National
20 Standard/American Society of Mechanical Engineers Safety Code for
21 elevators, dumbwaiters, escalators, and moving walks, known as ANSI
22 A17.1-1971, and all subsequent amendments and revisions to it, as
23 adopted by the Commissioner".

24 Defined terms: "Commissioner" § 12-801

25 "Dumbwaiter" § 12-801

26 "Elevator" § 12-801

27 "Escalator" § 12-801

28 "Moving walk" § 12-801

29 (N) SECRETARY.

30 "SECRETARY" MEANS THE SECRETARY OF LABOR, LICENSING, AND
31 REGULATION.

32 REVISOR'S NOTE: This subsection is new language added to avoid repetition
33 of the full title of the "Secretary of Labor, Licensing, and Regulation".

1 12-802. RESERVED.

2 12-803. RESERVED.

3 PART II. REGISTRATION AND INSPECTION OF ELEVATORS.

4 12-804. SCOPE OF PART; APPLICABILITY OF OTHER PROVISIONS.

5 (A) SCOPE OF PART.

6 PART II OF THIS SUBTITLE DOES NOT APPLY TO AN ELEVATOR UNIT THAT IS
7 INSTALLED IN A PRIVATELY OWNED SINGLE-FAMILY RESIDENTIAL DWELLING.

8 (B) APPLICABILITY OF OTHER PROVISIONS.

9 SECTIONS 5-205(J), 5-207, 5-214, 5-215, AND 5-216 AND TITLE 5, SUBTITLE 8 OF
10 THE LABOR AND EMPLOYMENT ARTICLE APPLY TO PART II OF THIS SUBTITLE.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 89, § 49B(k) and (o).

13 In subsection (a) of this section, the reference to "Part II of this subtitle" is
14 substituted for the former reference to "this section" to reflect the
15 reorganization of former § 49B as Part II of this subtitle. No substantive
16 change is intended.

17 Also in subsection (a) of this section, the former references to an "existing"
18 or "new" elevator, escalator, moving walk, or dumbwaiter are deleted as
19 unnecessary because this scope provision applies to any elevator unit in a
20 privately owned single-family residential dwelling regardless of when the
21 elevator unit is installed.

22 In subsection (b) of this section, the former phrase "[i]n addition to
23 provisions enumerated in subsections (f) and (j) of this section" is deleted
24 as unnecessary because former subsections (f) and (j) are revised in §§
25 12-814 and 12-805(d), respectively, of this subtitle.

26 Defined term: "Elevator unit" § 12-801

27 12-805. ADMINISTRATION AND ENFORCEMENT.

28 (A) IN GENERAL.

29 THE COMMISSIONER SHALL ADMINISTER AND ENFORCE PART II OF THIS
30 SUBTITLE.

31 (B) REGULATIONS.

32 (1) THE COMMISSIONER SHALL ADOPT REGULATIONS THAT CONFORM
33 GENERALLY TO THE AMERICAN NATIONAL STANDARD/AMERICAN SOCIETY OF
34 MECHANICAL ENGINEERS SAFETY CODE FOR ELEVATORS, DUMBWAITERS,

1 ESCALATORS, AND MOVING WALKS, ANSI CODE A17.1-1971, AND ALL SUBSEQUENT
2 AMENDMENTS AND REVISIONS TO IT.

3 (2) IF NECESSARY TO FULFILL THE COMMISSIONER'S
4 RESPONSIBILITIES UNDER PART II OF THIS SUBTITLE, THE COMMISSIONER SHALL:

5 (I) ADOPT REGULATIONS THAT AMEND STANDARDS SET FORTH IN
6 THE AMERICAN NATIONAL STANDARD/AMERICAN SOCIETY OF MECHANICAL
7 ENGINEERS SAFETY CODE FOR ELEVATORS, DUMBWAITERS, ESCALATORS, AND
8 MOVING WALKS, ANSI CODE A17.1-1971, AND ALL SUBSEQUENT AMENDMENTS AND
9 REVISIONS TO IT; AND

10 (II) ADOPT OTHER REGULATIONS.

11 (3) THE REGULATIONS SHALL BE CONSISTENT WITH THE
12 REQUIREMENTS OF § 12-1006 OF THIS TITLE.

13 (C) CHIEF ELEVATOR INSPECTOR.

14 THE COMMISSIONER MAY ASSIGN DUTIES AND FUNCTIONS IMPOSED BY PART II
15 OF THIS SUBTITLE TO THE CHIEF ELEVATOR INSPECTOR.

16 (D) COST OF ADMINISTRATION.

17 THE COST OF ADMINISTERING PART II OF THIS SUBTITLE IS PROVIDED FOR
18 UNDER § 5-204 OF THE LABOR AND EMPLOYMENT ARTICLE.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 89, § 49B(e), (j), and (l).

21 In subsection (b)(1) and (2)(ii) of this section and throughout this subtitle,
22 the former reference to "rules" is deleted as included in the reference to
23 "regulations". See General Revisor's Note to article.

24 Defined terms: "Commissioner" § 12-801

25 "Dumbwaiter" § 12-801

26 "Elevator" § 12-801

27 "Escalator" § 12-801

28 "Moving walk" § 12-801

29 12-806. SAFETY STANDARDS FOR ELEVATORS.

30 (A) IN GENERAL.

31 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, EACH ELEVATOR UNIT
32 SHALL BE INSPECTED, TESTED, AND MAINTAINED IN A SAFE OPERATING CONDITION
33 IN ACCORDANCE WITH:

34 (1) THE SAFETY CODE; AND

35 (2) ANY OTHER REGULATIONS ADOPTED BY THE COMMISSIONER.

1 (B) INSTALLATION BEFORE JULY 1, 1955.

2 (1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN
3 ELEVATOR UNIT INSTALLED BEFORE JULY 1, 1955, MAY BE USED WITHOUT BEING
4 ALTERED OR REBUILT TO COMPLY WITH THE REQUIREMENTS OF THE SAFETY CODE.

5 (II) EACH ELEVATOR SHALL BE EQUIPPED WITH STANDARD
6 HOISTWAY ENTRANCE PROTECTION, AND EACH PASSENGER ELEVATOR OF MORE
7 THAN 100 FEET PER MINUTE CONTRACT SPEED SHALL BE PROVIDED WITH CAR
8 DOORS OR GATES THAT MEET THE REQUIREMENTS OF THE SAFETY CODE.

9 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION,
10 EACH ELEVATOR UNIT INSTALLED BEFORE JULY 1, 1955:

11 (I) SHALL BE MAINTAINED IN A SAFE OPERATING CONDITION SO
12 AS NOT TO CREATE A SUBSTANTIAL PROBABILITY OF SERIOUS PHYSICAL HARM OR
13 DEATH; AND

14 (II) IS SUBJECT TO INSPECTIONS AND TESTS AS REQUIRED.

15 (C) ALTERATIONS AND RELOCATIONS.

16 (1) FOR PURPOSES OF THIS SUBSECTION, AN ALTERATION OF AN
17 EXISTING ELEVATOR UNIT IS ANY CHANGE MADE TO IT OTHER THAN THE REPAIR OR
18 REPLACEMENT OF DAMAGED, WORN, OR BROKEN PARTS NECESSARY FOR NORMAL
19 OPERATION.

20 (2) EACH ALTERATION OR RELOCATION OF AN ELEVATOR UNIT
21 INSTALLED AFTER JANUARY 1, 1975, SHALL MEET THE REQUIREMENTS OF THE
22 SAFETY CODE.

23 (D) EXCEPTIONS.

24 ON WRITTEN REQUEST, THE COMMISSIONER MAY GRANT EXCEPTIONS FROM
25 THE LITERAL REQUIREMENTS OR ALLOW THE USE OF DEVICES OR METHODS OTHER
26 THAN THOSE SPECIFIED UNDER THE SAFETY CODE AND OTHER REGULATIONS
27 ADOPTED BY THE COMMISSIONER IF:

28 (1) IT IS EVIDENT THAT THE EXCEPTION IS NECESSARY TO PREVENT
29 UNDUE HARDSHIP; OR

30 (2) EXISTING CONDITIONS PREVENT PRACTICAL COMPLIANCE AND IN
31 THE OPINION OF THE COMMISSIONER REASONABLE SAFETY CAN BE SECURED.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 89, § 49B(b)(9), (d), and (g).

34 Former Art. 89, § 49B(b)(7) and (8), which defined "new elevator" as an
35 elevator not classified as an existing elevator and "existing elevator" as an
36 elevator in which all work was completed prior to January 1, 1975,

1 respectively, are deleted as obsolete. The purpose of the former definitions
2 seemed to be to delineate the elevators to which the new standards
3 effective January 1, 1975, were applicable. The former definitions also
4 used the terms defined in a way other than the usual connotation of the
5 words and thus were potentially misleading and confusing.

6 Defined terms: "Commissioner" § 12-801

7 "Elevator" § 12-801

8 "Elevator unit" § 12-801

9 "Safety Code" § 12-801

10 12-807. CERTIFICATE REQUIRED.

11 AN ELEVATOR UNIT MAY NOT BE OPERATED IN A BUILDING, STRUCTURE, OR
12 PLACE OF EMPLOYMENT IN THE STATE UNLESS A CERTIFICATE IS ISSUED BY THE
13 COMMISSIONER.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from the first clause of former Art. 89, § 49B(a).

16 Former Art. 89, § 49B(b)(6), which defined "place of employment" as any
17 place where employees are suffered or permitted to work, is deleted as
18 unnecessary because it adds nothing to the common meaning of the term.

19 Former Art. 89, § 49B(n), which authorized the Commissioner to accept
20 certificates of inspection from a political subdivision or municipal
21 corporation, is repealed as obsolete. At present no political subdivision or
22 municipal corporation issues these certificates of inspection.

23 Defined terms: "Certificate" § 12-801

24 "Commissioner" § 12-801

25 "Elevator unit" § 12-801

26 12-808. REGISTRATION WITH COMMISSIONER.

27 (A) IN GENERAL.

28 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, EACH ELEVATOR UNIT
29 OWNED OR TO BE OPERATED SHALL BE REGISTERED WITH THE COMMISSIONER AT
30 LEAST 60 DAYS BEFORE ITS PLANNED COMPLETION AND BEFORE IT IS PLACED IN
31 SERVICE.

32 (B) FORM OF REGISTRATION; INFORMATION REQUIRED.

33 (1) THE OWNER OR LESSEE OF EACH ELEVATOR UNIT SHALL REGISTER
34 IT ON THE FORM PROVIDED BY THE COMMISSIONER.

35 (2) FOR EACH ELEVATOR UNIT REGISTERED, THE OWNER OR LESSEE
36 SHALL PROVIDE:

- 1 (I) ITS TYPE;
- 2 (II) ITS RATING LOAD AND SPEED;
- 3 (III) THE NAME OF ITS MANUFACTURER;
- 4 (IV) ITS LOCATION;
- 5 (V) THE PURPOSE FOR WHICH IT IS USED; AND
- 6 (VI) ANY OTHER INFORMATION THE COMMISSIONER REQUIRES.
- 7 (C) EMERGENCY CIRCUMSTANCES.

8 UNDER EMERGENCY CIRCUMSTANCES, AN OWNER OR LESSEE MAY REGISTER
9 AN ELEVATOR UNIT WITH THE COMMISSIONER WITH LESS THAN 60 DAYS' NOTICE IN
10 ACCORDANCE WITH REGULATIONS ADOPTED UNDER PART II OF THIS SUBTITLE.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 89, § 49B(c).

13 In subsection (a) of this section, the former phrase "[w]ithin 60 days after
14 January 1, 1975" and the former reference to an elevator unit "whose
15 erection is begun subsequent to January 1, 1975" are deleted as obsolete.
16 The requirements are the same for all elevator units now because the time
17 period for initial registration of elevator units has passed.

18 In subsection (c) of this section, the reference to regulations adopted under
19 "Part II of this subtitle" is substituted for the former inaccurate reference
20 to regulations adopted under "this subtitle". Regulations that relate to
21 elevators, dumbwaiters, escalators, and moving walks were adopted under
22 former § 49B, which was a section and not a subtitle in the former law.
23 Former § 49B is revised as Part II of this subtitle.

24 Defined terms: "Commissioner" § 12-801

25 "Elevator unit" § 12-801

26 12-809. INSPECTIONS GENERALLY.

27 (A) STATE INSPECTOR REQUIRED.

28 EACH INSPECTION REQUIRED BY PART II OF THIS SUBTITLE SHALL BE DONE BY
29 A STATE INSPECTOR.

30 (B) FEES.

31 (1) THE CONTRACTOR, OWNER, OR LESSEE OF AN ELEVATOR UNIT
32 SHALL PAY A FEE FOR AN INSPECTION AT THE FOLLOWING RATE:

33 (I) HALF DAY (UP TO 4 HOURS), NOT TO EXCEED \$250

1 (II) FULL DAY (UP TO 8 HOURS), NOT TO EXCEED \$500

2 (2) EACH FEE COLLECTED UNDER THIS SUBSECTION SHALL BE PAID
3 INTO THE GENERAL FUND.

4 (3) A CONTRACTOR, OWNER, OR LESSEE WHO NOTIFIES THE
5 COMMISSIONER AT LEAST 24 HOURS IN ADVANCE OF A SCHEDULED INSPECTION
6 THAT THE ELEVATOR UNIT DOES NOT COMPLY WITH THE REQUIREMENTS OF PART II
7 OF THIS SUBTITLE MAY NOT BE CHARGED A FEE UNDER PARAGRAPH (1) OF THIS
8 SUBSECTION.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 89, § 49B(i)(6), (7), and (8) and (m).

11 Subsection (b)(1) of this section is revised in the active voice to clarify who
12 is required to pay a fee for an inspection of an elevator, dumbwaiter,
13 escalator, or moving walk under Part II of this subtitle.

14 In subsection (b)(3) of this section, the reference to the requirements of
15 "Part II of this subtitle" is substituted for the former inaccurate reference
16 to the requirements of "this subsection". The requirements for elevators,
17 dumbwaiters, escalators, and moving walks are found in provisions
18 throughout Part II of this revised subtitle, not only in the provisions that
19 revise former Art. 89, § 49B(i).

20 Defined terms: "Commissioner" § 12-801

21 "Elevator unit" § 12-801

22 12-810. FINAL ACCEPTANCE INSPECTION.

23 (A) REQUIRED.

24 THE COMMISSIONER SHALL CONDUCT A FINAL ACCEPTANCE INSPECTION ON
25 COMPLETION OF THE INSTALLATION OF AN ELEVATOR UNIT BEFORE IT IS PLACED IN
26 SERVICE.

27 (B) INSPECTION CHECKLIST.

28 THE COMMISSIONER SHALL PROVIDE AN INSPECTION CHECKLIST THAT
29 SPECIFIES THE REQUIREMENTS FOR COMPLIANCE WITH THE SAFETY CODE AND
30 OTHER REGULATIONS ADOPTED BY THE COMMISSIONER.

31 (C) DUTIES OF CONTRACTOR.

32 BEFORE SCHEDULING A FINAL ACCEPTANCE INSPECTION WITH THE
33 COMMISSIONER FOR AN ELEVATOR UNIT BEING INSTALLED IN THE STATE, THE
34 CONTRACTOR SHALL ENSURE THAT:

35 (1) THE ELEVATOR UNIT MEETS THE REQUIREMENTS OF THE SAFETY
36 CODE AND OTHER REGULATIONS ADOPTED BY THE COMMISSIONER; AND

1 (2) THE ELEMENTS INDICATED ON THE INSPECTION CHECKLIST ARE
2 OPERATIONAL, HAVE BEEN TESTED, AND ARE FUNCTIONAL.

3 (D) FAILURE TO MEET CRITERIA.

4 IF AN INSPECTOR ARRIVES TO INSPECT AN ELEVATOR UNIT AT THE
5 DESIGNATED TIME AND THE ELEVATOR UNIT DOES NOT MEET THE CRITERIA
6 ESTABLISHED IN SUBSECTION (C) OF THIS SECTION, THE INSPECTOR MAY CANCEL
7 THE INSPECTION AND CHARGE THE CONTRACTOR A FEE IN ACCORDANCE WITH §
8 12-809 OF THIS SUBTITLE.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 89, § 49B(b)(11) and (12) and (i)(2).

11 Subsection (a) of this section is revised as a requirement for the
12 Commissioner to conduct a final acceptance inspection of an elevator unit
13 rather than as a definition of "final acceptance inspection" for clarity. The
14 requirement that there be a final acceptance inspection of elevator units is
15 implicit in the requirement that the contractor schedule a final acceptance
16 inspection and the prohibition that an elevator unit may not be operated
17 without a certificate of inspection and registration.

18 Subsection (b) of this section is revised as a requirement for the
19 Commissioner to provide an inspection checklist rather than as a
20 definition of "inspection checklist" for clarity.

21 In subsections (b) and (c)(1) of this section, the reference to the "Safety
22 Code and other regulations adopted by the Commissioner" is substituted
23 for the former references to "applicable safety codes and rules and
24 regulations adopted by the Commissioner" for specificity and to use the
25 defined term.

26 In subsection (d) of this section, the former reference to the "elevator,
27 dumbwaiter, escalator, or moving walk" contractor is deleted as
28 unnecessary given the context of the provision.

29 Defined terms: "Commissioner" § 12-801

30 "Elevator unit" § 12-801

31 "Safety Code" § 12-801

32 12-811. ISSUANCE OF CERTIFICATE; POSTING; SCOPE.

33 (A) ISSUANCE OF CERTIFICATE.

34 IF AN INSPECTION DISCLOSES THAT AN ELEVATOR UNIT COMPLIES WITH THE
35 SAFETY CODE AND OTHER REGULATIONS ADOPTED BY THE COMMISSIONER, THE
36 COMMISSIONER SHALL ISSUE A CERTIFICATE TO THE OWNER OR LESSEE OF THE
37 ELEVATOR UNIT.

38 (B) POSTING.

1 THE CERTIFICATE SHALL BE POSTED CONSPICUOUSLY IN OR ON THE
2 ELEVATOR UNIT.

3 (C) SCOPE OF CERTIFICATE.

4 WHILE A CERTIFICATE IS IN EFFECT, IT AUTHORIZES THE HOLDER TO OPERATE
5 THE ELEVATOR UNIT IN A BUILDING, STRUCTURE, OR PLACE OF EMPLOYMENT IN
6 THE STATE.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from the second clause of former Art. 89, § 49B(a) and the first and
9 third sentences of (i)(1).

10 In subsection (a) of this section, the reference to the "Safety Code" is
11 substituted for the former reference to the "applicable safety code, as
12 adopted by the Commissioner" for specificity and to use the defined term.

13 In subsection (b) of this section, the former phrase "when issued" is deleted
14 as surplusage.

15 Defined terms: "Certificate" § 12-801

16 "Commissioner" § 12-801

17 "Elevator unit" § 12-801

18 "Safety Code" § 12-801

19 12-812. TERM OF CERTIFICATE; ANNUAL INSPECTION.

20 (A) TERM OF CERTIFICATE.

21 A CERTIFICATE EXPIRES 1 YEAR AFTER ITS EFFECTIVE DATE.

22 (B) ANNUAL INSPECTION -- REQUIRED.

23 THE COMMISSIONER SHALL CONDUCT AN ANNUAL INSPECTION OF EACH
24 ELEVATOR UNIT TO DETERMINE WHETHER TO REISSUE THE CERTIFICATE.

25 (C) SAME -- DUTIES OF CONTRACTOR, OWNER, OR LESSEE.

26 BEFORE SCHEDULING AN ANNUAL INSPECTION WITH THE COMMISSIONER, THE
27 CONTRACTOR, OWNER, OR LESSEE OF AN ELEVATOR UNIT SHALL:

28 (1) ENSURE THAT THE ELEVATOR UNIT IS OPERATED, INSPECTED, AND
29 REPAIRED IN ACCORDANCE WITH PART II OF THIS SUBTITLE AND THE REGULATIONS
30 ADOPTED UNDER PART II OF THIS SUBTITLE; AND

31 (2) MAKE INSPECTION, MAINTENANCE, AND REPAIR RECORDS
32 AVAILABLE TO THE INSPECTOR CHARGED WITH INSPECTING THE ELEVATOR UNIT.

33 (D) SAME -- FAILURE; CORRECTIONS REQUIRED.

1 (1) WHEN AN INSPECTOR CONDUCTS AN ANNUAL INSPECTION AND THE
2 ELEVATOR UNIT FAILS THE INSPECTION, THE INSPECTOR SHALL ISSUE AN
3 INSPECTION CHECKLIST THAT SPECIFIES THE CORRECTIONS REQUIRED.

4 (2) THE INSPECTION CHECKLIST SHALL BE ON A FORM PROVIDED BY
5 THE COMMISSIONER AND SHALL SPECIFY THE REQUIREMENTS FOR COMPLIANCE
6 WITH THE SAFETY CODE AND OTHER REGULATIONS ADOPTED BY THE
7 COMMISSIONER.

8 (3) IF A FOLLOW-UP INSPECTION IS REQUIRED TO ENSURE
9 COMPLIANCE WITH THE CORRECTIONS SPECIFIED ON THE INSPECTION CHECKLIST,
10 THE CONTRACTOR, OWNER, OR LESSEE SHALL PAY A FEE IN ACCORDANCE WITH §
11 12-809 OF THIS SUBTITLE.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 89, § 49B(b)(12) and (13) and (i)(4) and the second
14 sentence of (1).

15 Subsection (b) of this section is revised as a requirement for the
16 Commissioner to conduct an annual inspection of an elevator unit rather
17 than as a definition of "annual inspection" for clarity. The requirement
18 that there be an annual inspection of elevator units is implicit in the
19 requirement that the contractor schedule an annual inspection and the
20 prohibition that an elevator unit may not be operated without a certificate
21 of inspection and registration, which is valid for only 1 year.

22 In subsection (c)(1) of this section, the reference to "Part II of this subtitle"
23 is substituted for the former inaccurate reference to "this subtitle". The
24 requirements for the operation, inspection, and repair of elevators,
25 dumbwaiters, escalators, and moving walks were contained in former Art.
26 89, § 49B, which was a section and not a subtitle in the former law. Former
27 § 49B is revised as Part II of this subtitle.

28 Defined terms: "Certificate" § 12-801

29 "Commissioner" § 12-801

30 "Elevator unit" § 12-801

31 "Safety Code" § 12-801

32 12-813. CANCELLATION OF INSPECTION; MAINTENANCE OF RECORDS.

33 (A) CANCELLATION OF INSPECTION.

34 IF AN INSPECTOR CANCELS A FINAL ACCEPTANCE INSPECTION UNDER § 12-810
35 OF THIS SUBTITLE OR IF A FOLLOW-UP INSPECTION IS REQUIRED UNDER § 12-812 OF
36 THIS SUBTITLE, THE CONTRACTOR, OWNER, OR LESSEE OF THE ELEVATOR UNIT
37 SHALL:

38 (1) RESCHEDULE THE INSPECTION WITH THE INSPECTOR; AND

1 (2) ENSURE THAT THE ELEVATOR UNIT COMPLIES WITH THE
2 REQUIREMENTS OF PART II OF THIS SUBTITLE, INCLUDING CORRECTING AS
3 NECESSARY ANY SAFETY HAZARDS OR VIOLATIONS OF THE SAFETY CODE, ON THE
4 DESIGNATED DATE.

5 (B) MAINTENANCE OF RECORDS.

6 A CONTRACTOR, OWNER, OR LESSEE SHALL MAINTAIN A COPY OF ANY
7 INSPECTION, MAINTENANCE, AND REPAIR RECORDS AT A CENTRAL LOCATION IN A
8 MANNER CONSISTENT WITH REGULATIONS ADOPTED UNDER PART II OF THIS
9 SUBTITLE.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 89, § 49B(i)(3) and (5).

12 In subsections (a)(2) and (b) of this section, the references to "Part II of this
13 subtitle" are substituted for the former inaccurate references to "this
14 subsection" and "this subtitle", respectively. The requirements for elevator
15 units are contained in Part II of this subtitle and regulations are adopted
16 under Part II of this subtitle.

17 In subsection (a)(2) of this section, the reference to any violations "of the
18 Safety Code" is substituted for the former reference to "code" violations for
19 specificity and to use the defined term.

20 Defined terms: "Elevator unit" § 12-801

21 "Safety Code" § 12-801

22 12-814. INSPECTION DISCLOSES UNSAFE CONDITIONS.

23 (A) CITATION AND PENALTIES AUTHORIZED.

24 WHEN AN INSPECTION DISCLOSES THAT AN ELEVATOR UNIT IS IN UNSAFE
25 CONDITION SO THAT ITS CONTINUED OPERATION WILL VIOLATE THE SAFETY CODE,
26 OR ANY OTHER REGULATION ADOPTED BY THE COMMISSIONER UNDER PART II OF
27 THIS SUBTITLE, A CITATION MAY BE ISSUED AND PENALTIES MAY BE ASSESSED IN
28 ACCORDANCE WITH §§ 5-212 AND 5-213 OF THE LABOR AND EMPLOYMENT ARTICLE.

29 (B) SUBSTANTIAL PROBABILITY OF DEATH OR SERIOUS BODILY INJURY.

30 IF AFTER INSPECTION OR TESTING OF AN ELEVATOR UNIT THE COMMISSIONER
31 DETERMINES THAT THE ELEVATOR UNIT IS IN VIOLATION OF THE SAFETY CODE OR
32 ANY OTHER REGULATION ADOPTED BY THE COMMISSIONER UNDER PART II OF THIS
33 SUBTITLE, AND THAT THERE IS A SUBSTANTIAL PROBABILITY THAT DEATH OR
34 SERIOUS PHYSICAL HARM COULD RESULT FROM ITS CONTINUED USE, ACTION
35 SHALL BE TAKEN IN ACCORDANCE WITH § 5-210 OF THE LABOR AND EMPLOYMENT
36 ARTICLE.

37 REVISOR'S NOTE: This section is new language derived without substantive
38 change from former Art. 89, § 49B(f) and (h).

1 %In subsections (a) and (b) of this section, the reference to "the Safety Code
2 or any other regulation adopted by the Commissioner under Part II of this
3 subtitle" is substituted for the former references to "any rule, regulation,
4 standard or Code promulgated and issued under this section" and "any
5 standard or safety code promulgated under this subtitle" for accuracy and
6 specificity.

7 In subsection (a) of this section, the defined term "elevator unit" is
8 substituted for the former reference to an "elevator" because inspections
9 cover elevator units, not only elevators, under this subtitle.

10 Defined terms: "Commissioner" § 12-801

11 "Elevator unit" § 12-801

12 "Safety Code" § 12-801

13 12-815. WARNING SIGNS IN CASE OF FIRE.

14 (A) IN GENERAL.

15 EACH PASSENGER ELEVATOR IN A PERMANENT INSTALLATION USED BY THE
16 PUBLIC SHALL HAVE A SIGN THAT READS "WARNING - ELEVATORS SHALL NOT BE
17 USED IN EVENT OF FIRE - USE MARKED EXIT STAIRWAYS".

18 (B) LOCATION OF SIGN -- IN GENERAL.

19 THE SIGN DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL BE POSTED:

20 (1) AT THE ENTRANCE TO THE ELEVATOR SHAFT ON EACH FLOOR; AND

21 (2) DIRECTLY ABOVE THE CALL BUTTON.

22 (C) SAME -- IN ELEVATOR CAR.

23 A SIGN SIMILAR TO THE SIGN DESCRIBED IN SUBSECTION (A) OF THIS SECTION
24 SHALL BE POSTED WITHIN THE ELEVATOR CAR.

25 (D) REQUIREMENTS FOR SIGNS.

26 (1) THE TOP OF EACH SIGN MAY NOT BE MORE THAN 6 FEET ABOVE THE
27 FLOOR.

28 (2) THE LETTERING IN THE WORD "WARNING" SHALL BE AT LEAST
29 THREE-EIGHTHS INCH HIGH AND THE REST OF THE LETTERING SHALL BE AT LEAST
30 ONE-FOURTH INCH HIGH.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 89, § 49B(p).

33 In subsection (c) of this section, the reference to the elevator "car" is
34 substituted for the former reference to the elevator "cabin" for consistency
35 with the defined term "elevator".

1 %In subsection (d)(2) of this section, the references to three-eighths inch
2 "high" and one-fourth inch "high" are added for clarity.

3 Defined term: "Elevator" § 12-801

4 12-816. ELEVATOR IN NEW BUILDING TO ACCOMMODATE RESCUE LITTER.

5 (A) SCOPE OF SECTION.

6 THIS SUBSECTION DOES NOT APPLY TO:

7 (1) ONE OR TWO FAMILY DWELLINGS; OR

8 (2) BUILDINGS UNDER THREE STORIES.

9 (B) REQUIRED.

10 EACH NEW BUILDING CONSTRUCTED AFTER JULY 1, 1985, IN WHICH AT LEAST
11 ONE ELEVATOR IS PLANNED, SHALL HAVE A PASSENGER ELEVATOR THAT CAN
12 ACCOMMODATE A HORIZONTALLY CARRIED AND POSITIONED 6 FOOT 8 INCH RESCUE
13 LITTER.

14 (C) EFFECT OF SPECIFIED CHANGES.

15 (1) IN THIS SECTION, "REPAIR" HAS THE MEANING STATED IN THE
16 SAFETY CODE.

17 (2) FOR PURPOSES OF THIS SECTION, REPAIR, RENOVATION,
18 MODIFICATION, RECONSTRUCTION, CHANGE OF OCCUPANCY, OR ADDITION TO AN
19 EXISTING BUILDING AS DEFINED IN SUBTITLE 10 OF THIS TITLE DOES NOT
20 CONSTITUTE A NEW BUILDING.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 89, § 49B(b)(14) and (q).

23 Defined terms: "Elevator" § 12-801

24 "Safety Code" § 12-801

25 12-817. RESERVED.

26 12-818. RESERVED.

27 PART III. ELEVATOR SAFETY REVIEW BOARD.

28 12-819. ESTABLISHED.

29 THERE IS AN ELEVATOR SAFETY REVIEW BOARD IN THE DEPARTMENT OF
30 LABOR, LICENSING, AND REGULATION.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 89, § 49C(b)(1).

1 %It is set forth as a separate section for emphasis.

2 Defined term: "Elevator" § 12-801

3 12-820. MEMBERSHIP.

4 (A) COMPOSITION; APPOINTMENT OF MEMBERS.

5 (1) THE BOARD CONSISTS OF THE FOLLOWING NINE MEMBERS:

6 (I) AS AN EX OFFICIO MEMBER, THE COMMISSIONER; AND

7 (II) EIGHT MEMBERS APPOINTED BY THE GOVERNOR WITH THE
8 ADVICE OF THE SECRETARY AND WITH THE ADVICE AND CONSENT OF THE SENATE.

9 (2) OF THE EIGHT APPOINTED MEMBERS OF THE BOARD:

10 (I) ONE SHALL REPRESENT A MAJOR ELEVATOR MANUFACTURING
11 COMPANY OR ITS AUTHORIZED REPRESENTATIVE;

12 (II) ONE SHALL REPRESENT AN ELEVATOR SERVICING COMPANY;

13 (III) ONE SHALL REPRESENT THE ARCHITECTURAL DESIGN
14 PROFESSION;

15 (IV) ONE SHALL REPRESENT A MUNICIPAL CORPORATION IN THE
16 STATE;

17 (V) ONE SHALL REPRESENT A BUILDING OWNER OR MANAGER;

18 (VI) ONE SHALL REPRESENT LABOR INVOLVED IN THE
19 INSTALLATION, MAINTENANCE, AND REPAIR OF ELEVATORS; AND

20 (VII) TWO SHALL BE MEMBERS OF THE PUBLIC.

21 (B) TENURE; VACANCIES.

22 (1) THE TERM OF AN APPOINTED MEMBER IS 3 YEARS.

23 (2) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
24 SUCCESSOR IS APPOINTED AND QUALIFIES.

25 (3) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
26 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
27 QUALIFIES.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 89, § 49C(c).

30 Defined terms: "Board" § 12-801

31 "Commissioner" § 12-801

1 "Elevator" § 12-801

2 "Secretary" § 12-801

3 12-821. CHAIRMAN.

4 (A) IN GENERAL.

5 THE GOVERNOR SHALL APPOINT A CHAIRMAN FROM AMONG THE MEMBERS OF
6 THE BOARD.

7 (B) TIE VOTE.

8 THE CHAIRMAN SHALL BE THE DECIDING VOTE IF THERE IS A TIE VOTE BY THE
9 BOARD.

10 REVISOR'S NOTE: This section formerly was Art. 89, § 49C(d).

11 The only changes are in style.

12 Defined term: "Board" § 12-801

13 12-822. MEETINGS; COMPENSATION.

14 (A) MEETINGS.

15 (1) THE BOARD SHALL MEET AT LEAST ONCE EACH CALENDAR
16 QUARTER, AT THE TIMES AND PLACES THAT IT DETERMINES.

17 (2) THE BOARD MAY HOLD SPECIAL MEETINGS AS PROVIDED IN ITS
18 REGULATIONS.

19 (B) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

20 A MEMBER OF THE BOARD:

21 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE BOARD;
22 BUT

23 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
24 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 89, § 49C(e) and (f).

27 In subsection (b)(1) of this section, the phrase "as a member of the Board"
28 is added to clarify that the prohibition on receipt of compensation is only
29 applicable to a member of the Board in the capacity of that individual as a
30 member.

31 Defined term: "Board" § 12-801

1 12-823. MISCELLANEOUS POWERS.

2 IN ADDITION TO ANY POWERS SET FORTH ELSEWHERE, THE BOARD MAY:

3 (1) CONSULT WITH ENGINEERING AUTHORITIES AND ORGANIZATIONS
4 CONCERNED WITH STANDARD SAFETY CODES ABOUT:

5 (I) REGULATIONS GOVERNING THE OPERATION, MAINTENANCE,
6 SERVICING, CONSTRUCTION, ALTERATION, INSTALLATION, AND INSPECTION OF
7 ELEVATOR UNITS; AND

8 (II) QUALIFICATIONS THAT ARE ADEQUATE, REASONABLE, AND
9 NECESSARY FOR ELEVATOR MECHANICS AND ELEVATOR CONTRACTORS;

10 (2) RECOMMEND APPLICABLE LEGISLATION;

11 (3) ADOPT BYLAWS FOR THE CONDUCT OF ITS PROCEEDINGS; AND

12 (4) ADOPT REGULATIONS TO CARRY OUT PART III OF THIS SUBTITLE.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 89, § 49C(g)(1), (2), and (4).

15 In the introductory language of this section, the phrase "[i]n addition to
16 any powers set forth elsewhere" is standard language added to avoid any
17 implication that the only powers the Board has are those specified in this
18 section.

19 In item (1)(i) of this subsection, the former reference to "rules" is deleted as
20 included in the reference to "regulations". *See* General Revisor's Note to
21 article.

22 In item (2) of this section, the former ambiguous reference to the authority
23 of the Board to recommend applicable legislation "when appropriate" is
24 deleted as unnecessary as the appropriateness or timing of the Board's
25 action under this item is implicit in its basic authority to recommend
26 applicable legislation.

27 Defined terms: "Board" § 12-801

28 "Elevator contractor" § 12-801

29 "Elevator mechanic" § 12-801

30 "Elevator unit" § 12-801

31 12-824. ESTABLISHMENT OF FEES.

32 (A) IN GENERAL.

33 THE BOARD SHALL ESTABLISH FEES FOR THE APPLICATION, ISSUANCE, AND
34 RENEWAL OF LICENSES ISSUED UNDER PART III OF THIS SUBTITLE.

35 (B) MAXIMUM FEES.

1 THE TOTAL AMOUNT OF FEES ESTABLISHED UNDER SUBSECTION (A) OF THIS
2 SECTION MAY NOT EXCEED, FOR THE 2-YEAR TERM OF THE LICENSE:

3 (1) \$100 PER YEAR FOR AN ELEVATOR MECHANIC; AND

4 (2) \$150 PER YEAR FOR AN ELEVATOR CONTRACTOR.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 89, § 49C(g)(3).

7 Defined terms: "Board" § 12-801

8 "Elevator contractor" § 12-801

9 "Elevator mechanic" § 12-801

10 "License" § 12-801

11 12-825. AUTHORITY OF SECRETARY.

12 THE BOARD EXERCISES ITS POWERS, DUTIES, AND FUNCTIONS SUBJECT TO
13 THE AUTHORITY OF THE SECRETARY.

14 REVISOR'S NOTE: This section formerly was Art. 89, § 49C(b)(2).

15 No changes are made.

16 Defined terms: "Board" § 12-801

17 "Secretary" § 12-801

18 12-826. LICENSE REQUIRED; EXCEPTIONS.

19 (A) ELEVATOR MECHANIC.

20 EXCEPT AS OTHERWISE PROVIDED IN PART III OF THIS SUBTITLE, A PERSON
21 SHALL BE LICENSED BY THE BOARD AS AN ELEVATOR MECHANIC BEFORE THE
22 PERSON ERECTS, CONSTRUCTS, WIRES, ALTERS, REPLACES, MAINTAINS, REPAIRS,
23 DISMANTLES, OR SERVICES ELEVATOR UNITS IN THE STATE.

24 (B) ELEVATOR CONTRACTOR.

25 EXCEPT AS OTHERWISE PROVIDED IN PART III OF THIS SUBTITLE, A PERSON
26 SHALL BE LICENSED BY THE BOARD AS AN ELEVATOR CONTRACTOR BEFORE THE
27 PERSON ENGAGES IN THE BUSINESS OF ERECTING, CONSTRUCTING, WIRING,
28 ALTERING, REPLACING, MAINTAINING, REPAIRING, DISMANTLING, OR SERVICING
29 ELEVATOR UNITS IN THE STATE.

30 (C) EXCEPTIONS.

31 (1) A LICENSED ELEVATOR CONTRACTOR IS NOT REQUIRED FOR
32 REMOVING OR DISMANTLING AN ELEVATOR UNIT IF:

33 (I) THE ELEVATOR UNIT IS DESTROYED AS A RESULT OF A
34 COMPLETE DEMOLITION OF A BUILDING; OR

1 (II) A HOISTWAY OR WELLWAY IS DEMOLISHED BACK TO THE
2 BASIC SUPPORT STRUCTURE.

3 (2) (I) AN INDIVIDUAL WHO WORKS AS AN ELEVATOR APPRENTICE
4 UNDER THE DIRECT SUPERVISION OF A LICENSED ELEVATOR MECHANIC NEED NOT
5 OBTAIN A LICENSE.

6 (II) AN INDIVIDUAL COMMONLY KNOWN AS AN ELEVATOR HELPER
7 WHO WORKS UNDER THE DIRECT SUPERVISION OF A LICENSED ELEVATOR
8 MECHANIC NEED NOT OBTAIN A LICENSE.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 89, § 49C(a)(3) and (h).

11 In subsection (c)(1) of this section, the reference to an "elevator unit" is
12 substituted for the former reference to a "conveyance" for clarity and
13 consistency with terminology used throughout this subtitle.

14 Subsection (c)(2) of this section incorporates the former definition of
15 "elevator apprentice" into the substantive provision that relates to elevator
16 apprentices for clarity.

17 Defined terms: "Board" § 12-801

18 "Elevator contractor" § 12-801

19 "Elevator mechanic" § 12-801

20 "Elevator unit" § 12-801

21 "License" § 12-801

22 "Person" § 1-101

23 12-827. QUALIFICATIONS OF APPLICANTS.

24 (A) ELEVATOR MECHANIC.

25 AN APPLICANT FOR AN ELEVATOR MECHANIC LICENSE SHALL:

26 (1) (I) HAVE AN ACCEPTABLE COMBINATION OF DOCUMENTED
27 EXPERIENCE AND EDUCATION CREDITS, WITH AT LEAST 3 YEARS OF RECENT AND
28 ACTIVE WORK EXPERIENCE IN THE ELEVATOR INDUSTRY, IN CONSTRUCTION,
29 MAINTENANCE, AND SERVICE OR REPAIR, AS VERIFIED BY CURRENT AND PREVIOUS
30 EMPLOYERS; AND

31 (II) PASS A WRITTEN EXAMINATION ADMINISTERED BY THE BOARD
32 ON THE SAFETY CODE;

33 (2) (I) HAVE COMPLETED AT LEAST 3 YEARS OF RECENT AND ACTIVE
34 WORK EXPERIENCE IN THE ELEVATOR INDUSTRY, IN CONSTRUCTION,
35 MAINTENANCE, AND SERVICE OR REPAIR, AS VERIFIED BY CURRENT AND PREVIOUS
36 EMPLOYERS; AND

1 (II) HAVE A CERTIFICATE OF COMPLETION OF THE MECHANIC
2 EXAMINATION OF A NATIONALLY RECOGNIZED TRAINING PROGRAM FOR THE
3 ELEVATOR INDUSTRY SUCH AS THE NATIONAL ELEVATOR INDUSTRY EDUCATIONAL
4 PROGRAM OR ITS EQUIVALENT; OR

5 (3) HAVE A CERTIFICATE OF COMPLETION OF AN APPRENTICESHIP
6 PROGRAM FOR ELEVATOR MECHANICS THAT HAS STANDARDS SUBSTANTIALLY
7 EQUIVALENT TO THOSE OF PART III OF THIS SUBTITLE AND IS REGISTERED WITH
8 THE BUREAU OF APPRENTICESHIP AND TRAINING OF THE U.S. DEPARTMENT OF
9 LABOR OR A STATE APPRENTICESHIP COUNCIL.

10 (B) ELEVATOR CONTRACTOR LICENSE.

11 AN APPLICANT FOR AN ELEVATOR CONTRACTOR LICENSE SHALL HAVE AT
12 LEAST 5 YEARS OF WORK EXPERIENCE IN THE ELEVATOR INDUSTRY IN
13 CONSTRUCTION, MAINTENANCE, SERVICE, OR REPAIR.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 89, § 49C(i)(1) and (3).

16 In subsection (a)(1)(ii) of this section, the reference to "pass[ing]" a written
17 examination is substituted for the former reference to "satisfactorily
18 complet[ing]" the examination for brevity.

19 Former Art. 89, § 49C(i)(2), which provided that certain applicants for a
20 license were entitled to a license without examination if the applicant
21 possessed specified ability and experience and applied for the license on or
22 before September 30, 2002, is deleted as obsolete as that date has passed.

23 Defined terms: "Board" § 12-801

24 "Elevator" § 12-801

25 "Elevator contractor" § 12-801

26 "Elevator mechanic" § 12-801

27 "Safety Code" § 12-801

28 12-828. APPLICATIONS FOR LICENSES.

29 (A) IN GENERAL.

30 (1) AN APPLICANT FOR A LICENSE SHALL:

31 (I) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT
32 THE BOARD PROVIDES;

33 (II) SUBMIT TO THE BOARD ANY PROOF OF ELIGIBILITY THAT THE
34 BOARD REQUIRES; AND

35 (III) PAY TO THE BOARD OR DESIGNEE OF THE BOARD AN
36 APPLICATION FEE SET BY THE BOARD.

1 (2) THE APPLICATION FEE IS NONREFUNDABLE.

2 (B) REQUIRED INFORMATION.

3 EACH APPLICATION SHALL CONTAIN THE FOLLOWING INFORMATION:

4 (1) IF THE APPLICANT IS AN INDIVIDUAL, THE NAME, RESIDENCE, AND
5 BUSINESS ADDRESS OF THE APPLICANT;

6 (2) IF THE APPLICANT IS A PARTNERSHIP, THE NAME, RESIDENCE, AND
7 BUSINESS ADDRESS OF EACH GENERAL PARTNER;

8 (3) IF THE APPLICANT IS A DOMESTIC CORPORATION, THE NAME AND
9 BUSINESS ADDRESS OF THE CORPORATION AND THE NAME AND RESIDENCE
10 ADDRESS OF THE PRINCIPAL OFFICER OF THE CORPORATION;

11 (4) IF THE APPLICANT IS A CORPORATION OTHER THAN A DOMESTIC
12 CORPORATION, THE NAME AND ADDRESS OF THE RESIDENT AGENT;

13 (5) THE NUMBER OF YEARS THE APPLICANT HAS ENGAGED IN THE
14 BUSINESS OF INSTALLING, ALTERING, REPAIRING, OR SERVICING ELEVATORS;

15 (6) THE APPROXIMATE NUMBER OF INDIVIDUALS, IF ANY, TO BE
16 EMPLOYED BY AN APPLICANT THAT IS AN ELEVATOR CONTRACTOR AND, IF
17 APPLICABLE, EVIDENCE SATISFACTORY TO THE BOARD THAT THE EMPLOYEES ARE
18 OR WILL BE COVERED BY WORKERS' COMPENSATION INSURANCE;

19 (7) EVIDENCE SATISFACTORY TO THE BOARD THAT THE APPLICANT IS
20 OR WILL BE COVERED BY GENERAL LIABILITY, PERSONAL INJURY, AND PROPERTY
21 DAMAGE INSURANCE; AND

22 (8) ANY OTHER INFORMATION THAT THE BOARD REQUIRES.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 89, § 49C(j).

25 In subsection (b)(2) of this section, the reference to a "general" partner is
26 added for clarity. The Public Safety Article Review Committee notes this
27 addition for consideration by the General Assembly. The Committee also
28 notes that limited partnerships are not covered by this provision.

29 In subsection (b)(4) of this section, the reference to the "resident agent" is
30 substituted for the former ambiguous reference to an "agent located locally
31 who shall be authorized to accept service of process" for clarity.

32 In subsection (b)(6) and (7) of this section, the reference to "evidence
33 satisfactory to the Board" is substituted for the former ambiguous
34 references to "satisfactory evidence" to identify the entity that must
35 determine whether evidence is satisfactory.

36 As to the authority of the Board to set fees, *see* § 12-824 of this subtitle.

1 Defined terms: "Board" § 12-801

2 "Elevator" § 12-801

3 "Elevator contractor" § 12-801

4 "License" § 12-801

5 12-829. EXAMINATIONS.

6 (A) RIGHT TO EXAMINATION.

7 AN APPLICANT WHO OTHERWISE QUALIFIES FOR AN ELEVATOR MECHANIC
8 LICENSE IS ENTITLED TO BE EXAMINED AS PROVIDED IN THIS SECTION ON PAYMENT
9 OF AN EXAMINATION FEE TO THE BOARD OR DESIGNEE OF THE BOARD.

10 (B) TIME AND PLACE OF EXAMINATION.

11 THE BOARD PERIODICALLY SHALL GIVE EXAMINATIONS TO APPLICANTS AT
12 THE TIMES AND PLACES THAT THE BOARD DETERMINES.

13 (C) NOTICE OF EXAMINATION.

14 THE BOARD SHALL GIVE EACH QUALIFIED APPLICANT NOTICE OF THE TIME
15 AND PLACE OF EXAMINATION.

16 (D) FEE, SUBJECTS, AND METHODS OF EXAMINATION.

17 THE BOARD SHALL DETERMINE THE FEE, CONTENT, SCOPE, AND PASSING
18 SCORE FOR EXAMINATIONS GIVEN UNDER THIS SECTION.

19 (E) USE OF TESTING SERVICE.

20 (1) THE BOARD MAY USE A TESTING SERVICE TO ADMINISTER THE
21 EXAMINATIONS REQUIRED UNDER THIS SECTION.

22 (2) IF THE BOARD USES A TESTING SERVICE UNDER THIS SECTION, THE
23 TESTING SERVICE, SUBJECT TO REQUIREMENTS SET BY THE BOARD, MAY:

24 (I) SET THE TIMES AND PLACES OF THE EXAMINATIONS;

25 (II) PROVIDE NOTICE OF THE TIMES AND PLACES OF
26 EXAMINATIONS TO THE APPLICANTS; AND

27 (III) PROVIDE ANY OTHER INFORMATION THAT THE BOARD MAY
28 REQUIRE THE TESTING SERVICE TO PROVIDE.

29 (F) NOTICE OF EXAMINATION RESULTS.

30 THE BOARD OR DESIGNEE OF THE BOARD SHALL PROVIDE TO THE APPLICANT
31 NOTICE OF THE EXAMINATION RESULT OF THE APPLICANT.

32 REVISOR'S NOTE: This section formerly was Art. 89, § 49C(k).

1 %The only changes are in style.

2 Defined terms: "Board" § 12-801

3 "Elevator mechanic" § 12-801

4 12-830. RECIPROCAL WAIVER OF EXAMINATION REQUIREMENTS.

5 (A) IN GENERAL.

6 SUBJECT TO THE LIMITATIONS OF THIS SECTION, THE BOARD MAY WAIVE THE
7 EXAMINATION REQUIREMENTS OF PART III OF THIS SUBTITLE FOR AN INDIVIDUAL
8 WHO IS LICENSED TO PERFORM ELEVATOR INSTALLATION, ALTERATION, REPAIR, OR
9 SERVICE WORK IN ANOTHER STATE OR A SUBDIVISION OF ANOTHER STATE.

10 (B) CONDITIONS.

11 THE BOARD MAY GRANT A WAIVER UNDER THIS SECTION ONLY IF THE
12 APPLICANT:

13 (1) PAYS TO THE BOARD THE APPROPRIATE APPLICATION FEE
14 REQUIRED BY PART III OF THIS SUBTITLE; AND

15 (2) PROVIDES ADEQUATE EVIDENCE THAT THE APPLICANT:

16 (I) MEETS THE QUALIFICATIONS OTHERWISE REQUIRED BY PART
17 III OF THIS SUBTITLE;

18 (II) HOLDS AN ACTIVE LICENSE IN GOOD STANDING IN THE OTHER
19 STATE OR SUBDIVISION THAT IS EQUIVALENT TO A LICENSE IN THIS STATE; AND

20 (III) BECAME LICENSED IN THE OTHER STATE OR SUBDIVISION
21 AFTER PASSING AN EXAMINATION THAT IS SIMILAR TO THE EXAMINATION FOR
22 WHICH THE APPLICANT IS SEEKING THE WAIVER.

23 (C) RECIPROCITY.

24 THE BOARD MAY GRANT A WAIVER ONLY IF THE STATE OR SUBDIVISION IN
25 WHICH THE APPLICANT IS LICENSED WAIVES THE EXAMINATION OF LICENSEES OF
26 THIS STATE TO A SIMILAR EXTENT AS THIS STATE WAIVES THE EXAMINATION
27 REQUIREMENTS FOR INDIVIDUALS LICENSED IN THAT STATE OR SUBDIVISION.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 89, § 49C(1).

30 Defined terms: "Board" § 12-801

31 "Elevator" § 12-801

32 "License" § 12-801

33 "State" § 1-101

1 12-831. ISSUANCE OF LICENSE.

2 (A) NOTICE OF QUALIFICATION.

3 IF AN APPLICANT QUALIFIES FOR A LICENSE UNDER PART III OF THIS
4 SUBTITLE, THE BOARD SHALL SEND THE APPLICANT A NOTICE THAT STATES:

5 (1) THE APPLICANT HAS QUALIFIED FOR A LICENSE; AND

6 (2) ON RECEIPT OF A LICENSE FEE SET BY THE BOARD, THE BOARD
7 SHALL ISSUE A LICENSE TO THE APPLICANT.

8 (B) ISSUANCE.

9 ON PAYMENT OF THE LICENSE FEE, THE BOARD SHALL ISSUE A LICENSE TO
10 EACH APPLICANT WHO MEETS THE REQUIREMENTS OF PART III OF THIS SUBTITLE.

11 REVISOR'S NOTE: This section formerly was Art. 89, § 49C(m).

12 The only changes are in style.

13 Defined terms: "Board" § 12-801

14 "License" § 12-801

15 12-832. SCOPE OF LICENSE.

16 (A) ELEVATOR MECHANIC LICENSE.

17 WHILE AN ELEVATOR MECHANIC LICENSE IS IN EFFECT, IT AUTHORIZES THE
18 LICENSEE TO ERECT, CONSTRUCT, WIRE, ALTER, REPLACE, MAINTAIN, REPAIR,
19 DISMANTLE, OR SERVICE ELEVATOR UNITS UNDER THE DIRECT SUPERVISION OF A
20 LICENSED ELEVATOR CONTRACTOR.

21 (B) ELEVATOR CONTRACTOR LICENSE.

22 WHILE AN ELEVATOR CONTRACTOR LICENSE IS IN EFFECT, IT AUTHORIZES THE
23 LICENSEE TO ENGAGE IN THE BUSINESS OF ERECTING, CONSTRUCTING, WIRING,
24 ALTERING, REPLACING, MAINTAINING, REPAIRING, DISMANTLING, OR SERVICING
25 ELEVATOR UNITS.

26 REVISOR'S NOTE: This section formerly was Art. 89, § 49C(n).

27 The only changes are in style.

28 Defined terms: "Elevator contractor" § 12-801

29 "Elevator mechanic" § 12-801

30 "Elevator unit" § 12-801

31 12-833. TERM AND RENEWAL OF LICENSE.

32 (A) TERM OF LICENSE.

1 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, UNLESS A
2 LICENSE IS RENEWED FOR A 2-YEAR TERM AS PROVIDED IN THIS SECTION, THE
3 LICENSE EXPIRES ON THE SECOND ANNIVERSARY OF ITS EFFECTIVE DATE.

4 (2) THE SECRETARY MAY DETERMINE THAT LICENSES ISSUED UNDER
5 PART III OF THIS SUBTITLE SHALL EXPIRE ON A STAGGERED BASIS.

6 (B) RENEWAL NOTICE.

7 AT LEAST 1 MONTH BEFORE A LICENSE EXPIRES, THE BOARD SHALL MAIL TO
8 THE LICENSEE, AT THE LAST KNOWN ADDRESS OF THE LICENSEE:

9 (1) A RENEWAL APPLICATION FORM; AND

10 (2) A NOTICE THAT STATES:

11 (I) THE DATE ON WHICH THE CURRENT LICENSE EXPIRES;

12 (II) THE DATE BY WHICH THE BOARD MUST RECEIVE THE
13 RENEWAL APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE
14 LICENSE EXPIRES; AND

15 (III) THE AMOUNT OF THE RENEWAL FEE.

16 (C) APPLICATIONS FOR RENEWAL.

17 BEFORE THE LICENSE EXPIRES, THE LICENSEE PERIODICALLY MAY RENEW
18 THE LICENSE FOR AN ADDITIONAL 2-YEAR TERM IF THE LICENSEE:

19 (1) OTHERWISE IS ENTITLED TO BE LICENSED;

20 (2) PAYS THE RENEWAL FEE TO THE BOARD; AND

21 (3) SUBMITS TO THE BOARD A RENEWAL APPLICATION ON THE FORM
22 THAT THE BOARD PROVIDES.

23 (D) CONTINUING PROFESSIONAL COMPETENCY.

24 THE BOARD SHALL ADOPT REGULATIONS TO:

25 (1) REQUIRE A DEMONSTRATION OF CONTINUING PROFESSIONAL
26 COMPETENCY FOR A LICENSEE AS A CONDITION OF RENEWAL OF A LICENSE UNDER
27 THIS SECTION;

28 (2) ESTABLISH CRITERIA FOR CONTINUING EDUCATION PROVIDERS;

29 (3) PROVIDE FOR A TEMPORARY WAIVER OF CONTINUING EDUCATION
30 UNDER SPECIFIED CIRCUMSTANCES; AND

31 (4) SET RECORD KEEPING CRITERIA FOR APPROVED CONTINUING
32 EDUCATION PROVIDERS.

1 (E) ISSUANCE OF RENEWAL.

2 THE BOARD SHALL RENEW THE LICENSE OF AND ISSUE A RENEWAL
3 CERTIFICATE TO EACH LICENSEE WHO MEETS THE REQUIREMENTS OF THIS
4 SECTION.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from Art. 89, § 49C(o).

7 In subsection (c)(2) of this section, the former phrase "set by the Board" is
8 deleted as surplusage. *See* § 12-824 of this subtitle.

9 In subsection (d)(4) of this section, the reference to "continuing education"
10 providers is substituted for the former reference to "training" providers for
11 consistency with subsection (d)(2) and (3) of this section.

12 Defined terms: "Board" § 12-801

13 "License" § 12-801

14 "Secretary" § 12-801

15 12-834. TEMPORARY ELEVATOR MECHANIC LICENSES.

16 (A) NOTICE OF SHORTAGE OF LICENSED PERSONNEL.

17 A LICENSED ELEVATOR CONTRACTOR SHALL NOTIFY THE BOARD IF THERE ARE
18 NO LICENSED ELEVATOR MECHANICS AVAILABLE TO PERFORM ELEVATOR WORK.

19 (B) REQUEST FOR ISSUANCE OF TEMPORARY LICENSES.

20 THE LICENSED ELEVATOR CONTRACTOR MAY REQUEST THAT THE BOARD
21 ISSUE TEMPORARY ELEVATOR MECHANIC LICENSES TO INDIVIDUALS CERTIFIED BY
22 THE LICENSED ELEVATOR CONTRACTOR TO HAVE AN ACCEPTABLE COMBINATION
23 OF DOCUMENTED EXPERIENCE AND EDUCATION TO PERFORM ELEVATOR WORK
24 WITHOUT DIRECT AND IMMEDIATE SUPERVISION.

25 (C) APPLICATION FOR LICENSE; FEE.

26 AN INDIVIDUAL CERTIFIED BY A LICENSED ELEVATOR CONTRACTOR AS
27 QUALIFIED UNDER SUBSECTION (B) OF THIS SECTION SHALL:

28 (1) IMMEDIATELY SEEK A TEMPORARY ELEVATOR MECHANIC LICENSE
29 FROM THE BOARD; AND

30 (2) PAY THE FEE THAT THE BOARD DETERMINES.

31 (D) TERM OF LICENSE.

32 A TEMPORARY ELEVATOR MECHANIC LICENSE IS VALID FOR 30 DAYS WHILE
33 THE LICENSEE IS EMPLOYED BY THE LICENSED ELEVATOR CONTRACTOR THAT
34 CERTIFIED THE LICENSEE AS QUALIFIED UNDER SUBSECTION (B) OF THIS SECTION.

1 (E) RENEWAL OF LICENSE.

2 A TEMPORARY ELEVATOR MECHANIC LICENSE MAY BE RENEWED AS LONG AS
3 THE SHORTAGE OF LICENSED ELEVATOR MECHANICS CONTINUES.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 89, § 49C(q).

6 In subsection (a) of this section, the reference to "elevator mechanics" is
7 substituted for the former reference to "personnel" for clarity and
8 consistency with terminology used throughout this section.

9 In the introductory language of subsection (c) of this section, the reference
10 to an individual certified "as qualified under subsection (b) of this section"
11 is substituted for the former reference to an individual certified "to have an
12 acceptable combination of documented experience and education to
13 perform elevator work without direct and immediate supervision" for
14 brevity.

15 Defined terms: "Board" § 12-801

16 "Elevator" § 12-801

17 "Elevator contractor" § 12-801

18 "Elevator mechanic" § 12-801

19 12-835. EMERGENCY ELEVATOR MECHANIC LICENSES.

20 (A) RESPONSE DURING EMERGENCY.

21 A LICENSED ELEVATOR CONTRACTOR SHALL RESPOND AS NECESSARY TO
22 ENSURE PUBLIC SAFETY IF:

23 (1) AN EMERGENCY EXISTS IN THE STATE BECAUSE OF DISASTER, ACT
24 OF GOD, OR WORK STOPPAGE; AND

25 (2) THE NUMBER OF LICENSED ELEVATOR MECHANICS IN THE STATE IS
26 INSUFFICIENT TO COPE WITH THE EMERGENCY.

27 (B) CERTIFIED INDIVIDUALS TO SEEK LICENSE.

28 WITHIN 5 BUSINESS DAYS AFTER BEGINNING WORK THAT REQUIRES AN
29 ELEVATOR MECHANIC LICENSE, AN INDIVIDUAL CERTIFIED BY A LICENSED
30 ELEVATOR CONTRACTOR TO HAVE AN ACCEPTABLE COMBINATION OF DOCUMENTED
31 EXPERIENCE AND EDUCATION TO PERFORM ELEVATOR WORK WITHOUT DIRECT AND
32 IMMEDIATE SUPERVISION SHALL SEEK AN EMERGENCY ELEVATOR MECHANIC
33 LICENSE FROM THE BOARD.

34 (C) PROOF OF COMPETENCY.

1 THE LICENSED ELEVATOR CONTRACTOR SHALL PROVIDE PROOF OF
2 COMPETENCY AS THE BOARD MAY REQUIRE FOR AN INDIVIDUAL CERTIFIED BY THE
3 LICENSED ELEVATOR CONTRACTOR UNDER SUBSECTION (B) OF THIS SECTION.

4 (D) ISSUANCE OF LICENSES.

5 THE BOARD SHALL ISSUE EMERGENCY ELEVATOR MECHANIC LICENSES.

6 (E) SCOPE OF LICENSE.

7 AN EMERGENCY ELEVATOR MECHANIC LICENSE ENTITLES THE LICENSEE TO
8 THE RIGHTS AND PRIVILEGES OF AN ELEVATOR MECHANIC LICENSE ISSUED UNDER
9 PART III OF THIS SUBTITLE.

10 (F) TERM OF LICENSE.

11 AN EMERGENCY ELEVATOR MECHANIC LICENSE IS VALID FOR 30 DAYS FOR
12 PARTICULAR ELEVATOR UNITS OR GEOGRAPHICAL AREAS AS THE BOARD
13 DESIGNATES.

14 (G) RENEWAL OF LICENSE.

15 THE BOARD SHALL RENEW AN EMERGENCY ELEVATOR MECHANIC LICENSE
16 DURING THE EXISTENCE OF AN EMERGENCY.

17 (H) FEE.

18 THE BOARD MAY NOT CHARGE A FEE FOR THE ISSUANCE OR RENEWAL OF AN
19 EMERGENCY ELEVATOR MECHANIC LICENSE.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 89, § 49C(p).

22 In subsection (a)(2) of this section, the reference to licensed "elevator
23 mechanic[s]" is substituted for the former reference to "individuals ...
24 holding licenses issued by the Board" for clarity and consistency with
25 terminology used throughout Part III of this subtitle.

26 Defined terms: "Board" § 12-801

27 "Elevator" § 12-801

28 "Elevator contractor" § 12-801

29 "Elevator mechanic" § 12-801

30 "Elevator unit" § 12-801

31 12-836. INSURANCE REQUIREMENTS.

32 (A) IN GENERAL.

33 AN ELEVATOR CONTRACTOR MAY NOT ENGAGE IN THE BUSINESS OF ELEVATOR
34 INSTALLATION, ALTERATION, REPAIR, OR SERVICE WORK UNLESS THE WORK OF THE
35 ELEVATOR CONTRACTOR IS COVERED BY:

1 (1) GENERAL LIABILITY INSURANCE IN THE AMOUNT OF AT LEAST
2 \$1,000,000; AND

3 (2) PROPERTY DAMAGE INSURANCE IN THE AMOUNT OF AT LEAST
4 \$500,000.

5 (B) PROOF OF INSURANCE.

6 AN APPLICANT FOR AN ELEVATOR CONTRACTOR LICENSE SHALL SUBMIT
7 PROOF OF THE INSURANCE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION TO
8 THE BOARD WITH THE LICENSE APPLICATION.

9 (C) LICENSE RENEWAL PROHIBITED.

10 UNLESS A LICENSEE MEETS THE INSURANCE REQUIREMENTS OF THIS
11 SECTION, THE BOARD MAY NOT RENEW THE LICENSE OF A LICENSEE TO WHOM THE
12 INSURANCE REQUIREMENTS OF THIS SECTION APPLY.

13 (D) NOTICE OF CANCELLATION.

14 A LICENSED ELEVATOR CONTRACTOR SHALL GIVE THE BOARD NOTICE OF THE
15 CANCELLATION OF INSURANCE AT LEAST 10 DAYS BEFORE THE EFFECTIVE DATE OF
16 THE CANCELLATION.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 89, § 49C(u).

19 Defined terms: "Board" § 12-801

20 "Elevator" § 12-801

21 "Elevator contractor" § 12-801

22 12-837. DENIALS, REFUSALS TO RENEW, REPRIMANDS, SUSPENSIONS, AND
23 REVOCATIONS -- GROUNDS; CIVIL PENALTY.

24 (A) GROUNDS.

25 SUBJECT TO THE HEARING PROVISIONS OF § 12-838 OF THIS SUBTITLE, THE
26 BOARD MAY DENY A LICENSE TO AN APPLICANT, REFUSE TO RENEW A LICENSE,
27 REPRIMAND A LICENSEE, SUSPEND OR REVOKE A LICENSE, OR IMPOSE A CIVIL
28 PENALTY NOT EXCEEDING \$1,000 IF THE BOARD FINDS THAT THE APPLICANT OR
29 LICENSEE:

30 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
31 OBTAIN A LICENSE;

32 (2) FAILS TO NOTIFY THE BOARD OR THE OWNER OR LESSEE OF AN
33 ELEVATOR OR RELATED MECHANISM OF ANY CONDITION NOT IN COMPLIANCE WITH
34 PART II OF THIS SUBTITLE;

35 (3) VIOLATES THIS SUBTITLE;

1 (4) TRANSFERS THE AUTHORITY GRANTED BY A LICENSE TO ANOTHER
2 PERSON;

3 (5) INSTALLS, REPAIRS, OR MAINTAINS AN ELEVATOR OR ASSISTS IN
4 THE INSTALLATION, REPAIR, OR MAINTENANCE OF AN ELEVATOR IN A NEGLIGENT
5 OR CARELESS MANNER; OR

6 (6) WILLFULLY OR DELIBERATELY DISREGARDS AND VIOLATES A
7 BUILDING CODE, ELECTRICAL CODE, OR CONSTRUCTION LAW OF THE STATE OR A
8 COUNTY OR MUNICIPAL CORPORATION OF THE STATE.

9 (B) CIVIL PENALTY.

10 IN DETERMINING THE APPROPRIATE PENALTY TO BE IMPOSED UNDER
11 SUBSECTION (A) OF THIS SECTION, THE BOARD SHALL CONSIDER:

12 (1) THE GRAVITY OF THE VIOLATION;

13 (2) THE GOOD FAITH OF THE VIOLATOR;

14 (3) THE NUMBER AND GRAVITY OF PREVIOUS VIOLATIONS BY THE SAME
15 VIOLATOR;

16 (4) THE HARM CAUSED TO THE COMPLAINANT, THE PUBLIC, AND THE
17 ELEVATOR MECHANIC PROFESSION;

18 (5) THE ASSETS OF THE VIOLATOR; AND

19 (6) ANY OTHER FACTORS THAT THE BOARD CONSIDERS RELEVANT.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 89, § 49C(r).

22 Defined terms: "Board" § 12-801

23 "County" § 12-801

24 "Elevator" § 12-801

25 "Elevator mechanic" § 12-801

26 "License" § 12-801

27 "Person" § 1-101

28 12-838. SAME -- HEARINGS.

29 (A) RIGHT TO HEARING.

30 EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 2 OF THE STATE
31 GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY FINAL ACTION UNDER PART
32 III OF THIS SUBTITLE, THE BOARD SHALL GIVE THE PERSON AGAINST WHOM THE
33 ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE BOARD.

34 (B) APPLICATION OF CONTESTED CASE PROVISIONS.

1 THE BOARD SHALL GIVE NOTICE AND HOLD THE HEARING IN ACCORDANCE
2 WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

3 REVISOR'S NOTE: This section formerly was Art. 89, § 49C(s).

4 The only changes are in style.

5 Defined term: "Board" § 12-801

6 12-839. JUDICIAL REVIEW.

7 ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD IN A
8 CONTESTED CASE, AS DEFINED IN § 10-202 OF THE STATE GOVERNMENT ARTICLE,
9 MAY TAKE AN APPEAL AS ALLOWED IN §§ 10-222 AND 10-223 OF THE STATE
10 GOVERNMENT ARTICLE.

11 REVISOR'S NOTE: This section formerly was Art. 89, § 49C(t).

12 No changes are made.

13 Defined terms: "Board" § 12-801

14 "Person" § 1-101

15 12-840. PROHIBITED ACTS.

16 (A) ELEVATOR INSTALLATION, REPAIR, OR MAINTENANCE WORK WITHOUT
17 LICENSE PROHIBITED.

18 EXCEPT AS OTHERWISE PROVIDED IN PART III OF THIS SUBTITLE, AN
19 INDIVIDUAL MAY NOT PERFORM, ATTEMPT TO PERFORM, OR OFFER TO PERFORM
20 ELEVATOR INSTALLATION, REPAIR, OR MAINTENANCE WORK IN THE STATE UNLESS
21 LICENSED BY THE BOARD.

22 (B) ASSISTANCE WITHOUT LICENSE PROHIBITED.

23 EXCEPT AS OTHERWISE PROVIDED IN PART III OF THIS SUBTITLE, AN
24 INDIVIDUAL MAY NOT ASSIST, ATTEMPT TO ASSIST, OR OFFER TO ASSIST IN
25 PERFORMING ELEVATOR INSTALLATION, REPAIR, OR MAINTENANCE WORK IN THE
26 STATE UNLESS LICENSED BY THE BOARD.

27 (C) PROHIBITED EMPLOYMENT.

28 EXCEPT AS OTHERWISE PROVIDED IN PART III OF THIS SUBTITLE, AN
29 ELEVATOR CONTRACTOR MAY NOT EMPLOY AN ELEVATOR MECHANIC UNLESS THE
30 ELEVATOR MECHANIC IS LICENSED BY THE BOARD.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from Art. 89, § 49C(v).

33 In subsection (c) of this section, the phrase "[e]xcept as otherwise provided
34 in Part III of this subtitle" is added to indicate exceptions exist.

1 % Also in subsection (c) of this section, the defined term "elevator contractor"
2 is substituted for the former reference to a "contractor" for specificity.

3 Defined terms: "Board" § 12-801

4 "Elevator" § 12-801

5 "Elevator contractor" § 12-801

6 "Elevator mechanic" § 12-801

7 12-841. PENALTIES.

8 (A) IN GENERAL.

9 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON WHO
10 VIOLATES PART III OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON
11 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE
12 NOT EXCEEDING \$100 FOR EACH DAY THAT THE VIOLATION CONTINUES OR BOTH.

13 (B) WILLFUL VIOLATION.

14 A PERSON WHO KNOWINGLY AND WILLFULLY VIOLATES PART III OF THIS
15 SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO
16 IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$5,000 OR
17 BOTH.

18 REVISOR'S NOTE: This section formerly was Art. 89, § 49C(w).

19 The only changes are in style.

20 Defined term: "Person" § 1-101

21 SUBTITLE 9. BOILER AND PRESSURE VESSEL SAFETY ACT.

22 12-901. DEFINITIONS.

23 (A) IN GENERAL.

24 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

25 REVISOR'S NOTE: This subsection is new language derived without
26 substantive change from the second sentence of former Art. 48, § 168.

27 It is restated in the standard introductory language to a definition section.

28 (B) BOARD.

29 "BOARD" MEANS THE BOARD OF BOILER RULES.

30 REVISOR'S NOTE: This subsection is new language derived without
31 substantive change from the first sentence of former Art. 48, § 169(a), as it
32 related to the Board of Boiler Rules being referred to as the "Board".

1 Defined term: "Boiler" § 12-901

2 (C) BOILER.

3 "BOILER" MEANS:

4 (1) A CLOSED VESSEL IN WHICH WATER IS HEATED, STEAM IS
5 GENERATED, STEAM IS SUPERHEATED, OR A COMBINATION OF THESE FUNCTIONS IS
6 ACCOMPLISHED, UNDER PRESSURE OR VACUUM FOR USE EXTERNALLY TO THE
7 VESSEL BY THE DIRECT APPLICATION OF HEAT FROM THE COMBUSTION OF FUELS
8 OR FROM ELECTRICITY OR NUCLEAR ENERGY; OR

9 (2) A FIRED UNIT FOR HEATING OR VAPORIZING LIQUIDS OTHER THAN
10 WATER IF THE UNIT IS SEPARATE FROM A PROCESSING SYSTEM AND IS COMPLETE
11 WITHIN ITSELF.

12 REVISOR'S NOTE: This subsection is new language derived without
13 substantive change from former Art. 48, § 168(a).

14 In item (2) of this subsection, the word "means" is substituted for the
15 former words "shall include" so that the "means" part of the definition of
16 "boiler" is not expanded by the "includes" part of the definition as it was in
17 the former law. The first sentence of former § 168(a) defined a boiler as a
18 closed vessel in which water was heated. The second sentence of former §
19 168(a) referred to a fired unit for heating or vaporizing liquids other than
20 water.

21 (D) CERTIFICATE.

22 "CERTIFICATE" MEANS A CERTIFICATE ISSUED BY THE CHIEF BOILER
23 INSPECTOR TO OPERATE A BOILER OR PRESSURE VESSEL.

24 REVISOR'S NOTE: This subsection is new language added to avoid repetition
25 of phrases such as "certificate issued by the Chief Boiler Inspector to
26 operate a boiler or pressure vessel".

27 Defined terms: "Boiler" § 12-901

28 "Pressure vessel" § 12-901

29 (E) CERTIFICATE INSPECTION.

30 "CERTIFICATE INSPECTION" MEANS AN INSPECTION, THE REPORT OF WHICH IS
31 USED BY THE CHIEF BOILER INSPECTOR TO DETERMINE WHETHER TO ISSUE A
32 CERTIFICATE.

33 REVISOR'S NOTE: This subsection is new language derived without
34 substantive change from the first sentence of former Art. 48, § 168(c).

35 The former phrase "or not" is deleted as surplusage.

36 Defined term: "Certificate" § 12-901

1 (F) COMMISSIONER.

2 "COMMISSIONER" MEANS THE COMMISSIONER OF LABOR AND INDUSTRY.

3 REVISOR'S NOTE: This subsection is new language added to avoid repetition
4 of the full title of the "Commissioner of Labor and Industry".

5 (G) HEATING BOILER.

6 "HEATING BOILER" MEANS:

7 (1) A STEAM BOILER THAT OPERATES AT PRESSURES NOT EXCEEDING
8 15 PSIG; OR

9 (2) A HOT WATER BOILER THAT OPERATES AT PRESSURES NOT
10 EXCEEDING 160 PSIG OR TEMPERATURES NOT EXCEEDING 250 DEGREES
11 FAHRENHEIT.

12 REVISOR'S NOTE: This subsection formerly was Art. 48, § 168(a)(3).

13 The only changes are in style.

14 Defined term: "Boiler" § 12-901

15 (H) HIGH PRESSURE, HIGH TEMPERATURE WATER BOILER.

16 "HIGH PRESSURE, HIGH TEMPERATURE WATER BOILER" MEANS A WATER
17 BOILER THAT OPERATES AT PRESSURES EXCEEDING 160 PSIG OR TEMPERATURES
18 EXCEEDING 250 DEGREES FAHRENHEIT.

19 REVISOR'S NOTE: This subsection formerly was Art. 48, § 168(a)(2).

20 The only changes are in style.

21 Defined term: "Boiler" § 12-901

22 (I) POWER BOILER.

23 "POWER BOILER" MEANS A BOILER IN WHICH STEAM OR OTHER VAPOR IS
24 GENERATED AT A PRESSURE OF MORE THAN 15 PSIG.

25 REVISOR'S NOTE: This subsection formerly was Art. 48, § 168(a)(1).

26 The only changes are in style.

27 Defined term: "Boiler" § 12-901

28 (J) PRESSURE VESSEL.

29 (1) "PRESSURE VESSEL" MEANS A VESSEL IN WHICH THE PRESSURE IS
30 OBTAINED:

1 (I) FROM AN EXTERNAL SOURCE; OR

2 (II) BY THE APPLICATION OF HEAT FROM:

3 1. AN INDIRECT SOURCE; OR

4 2. A DIRECT SOURCE OTHER THAN A BOILER.

5 (2) "PRESSURE VESSEL" DOES NOT INCLUDE A PIPE, PIPING
6 COMPONENT, OR STRUCTURE WHOSE PRIMARY FUNCTION IS TO TRANSPORT FLUIDS.

7 REVISOR'S NOTE: This subsection is new language derived without
8 substantive change from former Art. 48, §§ 168(b) and 172(d).

9 In paragraph (1)(ii)2 of this subsection, the former phrase "as defined in
10 subsection (a) of this section" is deleted as surplusage in light of the use of
11 the defined term "boiler".

12 Defined term: "Boiler" § 12-901

13 (K) SECRETARY.

14 "SECRETARY" MEANS THE SECRETARY OF LABOR, LICENSING, AND
15 REGULATION.

16 REVISOR'S NOTE: This subsection is new language added to avoid repetition
17 of the full title of the "Secretary of Labor, Licensing, and Regulation".

18 12-902. LEGISLATIVE FINDINGS AND INTENT.

19 (A) FINDINGS.

20 THE GENERAL ASSEMBLY FINDS THAT THERE HAVE BEEN MANY INCIDENTS OF
21 DANGER TO PUBLIC SAFETY BECAUSE OF IMPROPER OR INADEQUATE
22 CONSTRUCTION, INSTALLATION, MAINTENANCE, USE, REPAIR, OR INSPECTION OF
23 BOILERS AND PRESSURE VESSELS THAT OPERATE IN THE STATE.

24 (B) INTENT.

25 THE INTENT OF THIS SUBTITLE IS TO ESTABLISH BOILER AND PRESSURE
26 VESSEL SAFETY STANDARDS IN THE STATE TO PROVIDE A LEVEL CONSISTENT WITH
27 THE NEEDS OF PUBLIC SAFETY.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 48, § 167.

30 In subsections (a) and (b) of this section, the references to "public safety"
31 are substituted for the former references to the "safety of life, limb, and
32 property" for brevity and clarity.

33 In subsection (b) of this section, the former reference to the "policy of this

1 subtitle" is deleted as included in the reference to the "intent of this
2 subtitle".

3 Also in subsection (b) of this section, the former reference to the needs "of
4 the population" is deleted as implicit in the reference to the needs of
5 "public" safety.

6 Defined terms: "Boiler" § 12-901

7 "Pressure vessel" § 12-901

8 12-903. APPLICABILITY AND SCOPE OF SUBTITLE.

9 (A) APPLICABILITY.

10 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THIS SUBTITLE APPLIES
11 TO ALL BOILERS AND PRESSURE VESSELS.

12 (B) SCOPE.

13 THIS SUBTITLE DOES NOT APPLY TO:

14 (1) A BOILER OR PRESSURE VESSEL THAT IS UNDER FEDERAL CONTROL
15 OR REGULATION;

16 (2) A PRESSURE VESSEL THAT:

17 (I) IS USED TO TRANSPORT OR STORE COMPRESSED GASES;

18 (II) IS CONSTRUCTED IN COMPLIANCE WITH SPECIFICATIONS OF
19 THE U.S. DEPARTMENT OF TRANSPORTATION; AND

20 (III) WHEN CHARGED WITH GAS, IS MARKED, MAINTAINED, AND
21 PERIODICALLY REQUALIFIED FOR USE, AS REQUIRED BY THE REGULATIONS OF THE
22 U.S. DEPARTMENT OF TRANSPORTATION;

23 (3) AN AIR TANK THAT IS LOCATED ON A VEHICLE THAT IS OPERATING
24 UNDER THE RULES OF OTHER STATE AUTHORITIES AND IS USED FOR CARRYING
25 PASSENGERS OR FREIGHT;

26 (4) AN AIR TANK THAT IS INSTALLED ON THE RIGHT-OF-WAY OF A
27 RAILROAD AND IS USED DIRECTLY IN THE OPERATION OF TRAINS;

28 (5) A PRESSURE VESSEL THAT DOES NOT EXCEED:

29 (I) 5 CUBIC FEET IN VOLUME AND 250 PSIG PRESSURE;

30 (II) 1 1/2 CUBIC FEET IN VOLUME AND 600 PSIG PRESSURE; OR

31 (III) AN INSIDE DIAMETER OF 6 INCHES WITH NO LIMITATION ON
32 PRESSURE;

1 (6) A PRESSURE VESSEL THAT OPERATES AT A WORKING PRESSURE NOT
2 EXCEEDING 15 PSIG;

3 (7) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A VESSEL THAT
4 CONTAINS WATER UNDER PRESSURE, INCLUDING A VESSEL THAT CONTAINS AIR,
5 THE COMPRESSION OF WHICH SERVES ONLY AS A CUSHION, IF NEITHER OF THE
6 FOLLOWING LIMITATIONS IS EXCEEDED:

7 (I) A DESIGN PRESSURE OF 300 PSIG; AND

8 (II) A DESIGN TEMPERATURE OF 210 DEGREES FAHRENHEIT;

9 (8) A HOT WATER SUPPLY BOILER THAT IS EQUIPPED WITH A SAFETY
10 RELIEF VALVE AND IS DIRECTLY FIRED WITH OIL, GAS, OR ELECTRICITY IF NONE OF
11 THE FOLLOWING LIMITATIONS IS EXCEEDED:

12 (I) HEAT INPUT OF 200,000 BTU/HOUR;

13 (II) WATER TEMPERATURE OF 210 DEGREES FAHRENHEIT; AND

14 (III) NOMINAL WATER CAPACITY OF 120 GALLONS;

15 (9) A MECHANICAL DEVICE OF ANY OF THE FOLLOWING TYPES:

16 (I) A PUMP;

17 (II) A COMPRESSOR;

18 (III) A TURBINE;

19 (IV) A GENERATOR; OR

20 (V) A HYDRAULIC OR PNEUMATIC CYLINDER; OR

21 (10) THE WATER-CONTAINING PART OF AN AIR-CONDITIONING OR
22 REFRIGERATION SYSTEM CONDENSER OR EVAPORATOR:

23 (I) THAT USES HALOCARBON REFRIGERANT;

24 (II) THAT IS CONSTRUCTED IN ACCORDANCE WITH THE
25 REQUIREMENTS OF ANSI/ASHRAE STANDARD 15 (THE SAFETY CODE FOR
26 MECHANICAL REFRIGERATION) IN EFFECT AT THE TIME OF CONSTRUCTION; AND

27 (III) IF NEITHER OF THE FOLLOWING LIMITATIONS IS EXCEEDED:

28 1. A DESIGN PRESSURE OF 300 PSIG; AND

29 2. A DESIGN TEMPERATURE OF 210 DEGREES FAHRENHEIT.

30 (C) WATER ADDITIVES.

1 FOR PURPOSES OF SUBSECTION (B)(7) OF THIS SECTION, WATER MAY CONTAIN
2 ADDITIVES IF THE ASTM FLASH POINT OF THE AQUEOUS SOLUTION AT
3 ATMOSPHERIC PRESSURE IS 185 DEGREES FAHRENHEIT OR HIGHER.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 48, § 172(a), (c), and (e) and the second clause of
6 the first sentence of § 168(a).

7 In the introductory language of subsection (b) of this section, the former
8 reference to the subtitle not applying to "the following boilers and pressure
9 vessels" is deleted as inaccurate because not all the exemptions listed are
10 types of boilers or pressure vessels.

11 Defined terms: "Boiler" § 12-901

12 "Pressure vessel" § 12-901

13 12-904. BOARD OF BOILER RULES.

14 (A) ESTABLISHED.

15 THERE IS A BOARD OF BOILER RULES IN THE DIVISION OF LABOR AND
16 INDUSTRY IN THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

17 (B) COMPOSITION; APPOINTMENT OF MEMBERS.

18 (1) THE BOARD CONSISTS OF THE FOLLOWING 10 MEMBERS:

19 (I) AS AN EX OFFICIO MEMBER, THE COMMISSIONER; AND

20 (II) NINE MEMBERS APPOINTED BY THE GOVERNOR WITH THE
21 ADVICE OF THE SECRETARY AND WITH THE ADVICE AND CONSENT OF THE SENATE.

22 (2) OF THE NINE APPOINTED MEMBERS OF THE BOARD:

23 (I) ONE SHALL BE A REPRESENTATIVE OF OWNERS AND USERS OF
24 POWER BOILERS;

25 (II) ONE SHALL BE A REPRESENTATIVE OF OWNERS AND USERS OF
26 HEATING BOILERS;

27 (III) ONE SHALL BE A REPRESENTATIVE OF OWNERS AND USERS OF
28 PRESSURE VESSELS;

29 (IV) ONE SHALL BE A REPRESENTATIVE OF MANUFACTURERS OR
30 ASSEMBLERS OF BOILERS OR PRESSURE VESSELS;

31 (V) ONE SHALL BE A REPRESENTATIVE OF AN INSURER
32 AUTHORIZED TO INSURE BOILERS OR PRESSURE VESSELS;

33 (VI) ONE SHALL BE A MECHANICAL ENGINEER ON THE FACULTY OF
34 A RECOGNIZED ENGINEERING COLLEGE IN THE STATE;

1 (VII) ONE SHALL BE A STATIONARY ENGINEER;

2 (VIII) ONE SHALL BE A PROFESSIONAL ENGINEER WITH BOILER OR
3 PRESSURE VESSEL EXPERIENCE; AND

4 (IX) ONE SHALL BE A CONSUMER MEMBER.

5 (C) CONSUMER MEMBER.

6 (1) THE CONSUMER MEMBER OF THE BOARD:

7 (I) SHALL BE A MEMBER OF THE PUBLIC;

8 (II) MAY NOT BE A LICENSEE OR OTHERWISE BE SUBJECT TO
9 REGULATION BY THE BOARD;

10 (III) MAY NOT BE REQUIRED TO MEET THE QUALIFICATIONS FOR
11 THE PROFESSIONAL MEMBERS OF THE BOARD; AND

12 (IV) MAY NOT, WITHIN 1 YEAR BEFORE APPOINTMENT, HAVE HAD A
13 FINANCIAL INTEREST IN OR HAVE RECEIVED COMPENSATION FROM A PERSON
14 REGULATED BY THE BOARD.

15 (2) WHILE A MEMBER OF THE BOARD, THE CONSUMER MEMBER MAY
16 NOT:

17 (I) HAVE A FINANCIAL INTEREST IN OR RECEIVE COMPENSATION
18 FROM A PERSON REGULATED BY THE BOARD; OR

19 (II) GRADE ANY EXAMINATION GIVEN BY OR FOR THE BOARD.

20 (D) TENURE; VACANCIES.

21 (1) THE TERM OF AN APPOINTED MEMBER IS 4 YEARS.

22 (2) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS
23 REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1,
24 2003.

25 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
26 SUCCESSOR IS APPOINTED AND QUALIFIES.

27 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
28 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
29 QUALIFIES.

30 (E) CHAIRMAN.

31 THE BOARD SHALL ELECT A CHAIRMAN FROM AMONG ITS MEMBERS.

32 (F) VOTING.

1 THE COMMISSIONER MAY NOT VOTE.

2 (G) COMPENSATION.

3 (1) THE COMMISSIONER MAY NOT RECEIVE ADDITIONAL
4 COMPENSATION AS A MEMBER OF THE BOARD.

5 (2) AN APPOINTED MEMBER OF THE BOARD:

6 (I) MAY NOT RECEIVE A SALARY AS A MEMBER OF THE BOARD;
7 BUT

8 (II) IS ENTITLED TO:

9 1. COMPENSATION IN ACCORDANCE WITH THE STATE
10 BUDGET; AND

11 2. REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD
12 STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

13 (H) AUTHORITY OF SECRETARY.

14 THE EXERCISE OR PERFORMANCE OF THE POWERS, AUTHORITY, DUTIES, AND
15 FUNCTIONS OF THE BOARD UNDER THIS SUBTITLE IS SUBJECT TO THE POWER AND
16 AUTHORITY OF THE SECRETARY.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 48, § 169.

19 In subsection (a) of this section, the phrase "in the Department of Labor,
20 Licensing, and Regulation" is added for clarity.

21 In subsection (b)(2)(v) of this section, the reference to "an insurer
22 authorized" to insure boilers or pressure vessels is substituted for the
23 former reference to "a company licensed" to insure them for accuracy
24 because insurers receive certificates of authority, not licenses.

25 In subsection (d)(2) of this section, standard language is substituted for the
26 second sentence of former Art. 48, § 169(d), which provided for the terms of
27 the initial members of the Board and was obsolete. This substitution is not
28 intended to alter the term of any member of the Board. *See* § _____ of
29 Ch. _____, Acts of 2003.

30 In subsection (g)(2)(ii)1 of this section, the former reference to
31 compensation for "each day or part thereof necessarily spent in the
32 discharge of their official duties" is deleted as unnecessary in light of the
33 reference to "compensation in accordance with the State budget" and to
34 reflect that members of the Board no longer receive per diem pay.

35 In subsection (h) of this section, the former phrase "as set forth in the
36 Business Regulation Article or elsewhere in the laws of this State" is

1 deleted as an unnecessary general reference to every provision of law in
2 which the Secretary's authority is set forth.

3 Defined terms: "Board" § 12-901

4 "Boiler" § 12-901

5 "Commissioner" § 12-901

6 "Heating boiler" § 12-901

7 "Person" § 1-101

8 "Power boiler" § 12-901

9 "Pressure vessel" § 12-901

10 "Secretary" § 12-901

11 12-905. REGULATIONS FOR BOILERS AND PRESSURE VESSELS.

12 (A) BOARD TO FORMULATE.

13 THE BOARD SHALL FORMULATE REGULATIONS FOR THE SAFE CONSTRUCTION,
14 USE, INSTALLATION, MAINTENANCE, REPAIR, AND INSPECTION OF BOILERS AND
15 PRESSURE VESSELS IN THE STATE.

16 (B) CONFORMITY TO SUBTITLE AND NATIONAL CODES.

17 THE REGULATIONS FORMULATED BY THE BOARD SHALL CONFORM AS NEARLY
18 AS POSSIBLE TO THE REQUIREMENTS OF:

19 (1) THIS SUBTITLE; AND

20 (2) THE FOLLOWING CODES AS AMENDED AND INTERPRETED:

21 (I) THE BOILER AND PRESSURE VESSEL CODE OF THE AMERICAN
22 SOCIETY OF MECHANICAL ENGINEERS;

23 (II) THE INSPECTION CODE OF THE NATIONAL BOARD OF BOILER
24 AND PRESSURE VESSEL INSPECTORS;

25 (III) THE CODE FOR POWER PIPING, B31.1 OF THE AMERICAN
26 SOCIETY OF MECHANICAL ENGINEERS;

27 (IV) THE CODE FOR CONTROLS AND SAFETY DEVICES FOR
28 AUTOMATICALLY FIRED BOILERS, CSD-1 OF THE AMERICAN SOCIETY OF
29 MECHANICAL ENGINEERS;

30 (V) NFPA 85 BOILER AND COMBUSTION SYSTEMS HAZARDS CODE;
31 AND

32 (VI) THE CODE FOR CHEMICAL PLANT AND PETROLEUM REFINERY
33 PIPING, B31.3 OF THE AMERICAN SOCIETY OF MECHANICAL ENGINEERS.

34 (C) ADOPTION BY COMMISSIONER AND APPROVAL BY SECRETARY.

1 THE REGULATIONS FORMULATED BY THE BOARD MAY BE ADOPTED BY THE
2 COMMISSIONER SUBJECT TO THE APPROVAL OF THE SECRETARY.

3 (D) CONSISTENCY WITH MARYLAND BUILDING REHABILITATION CODE.

4 THE BOARD AND THE COMMISSIONER SHALL SUBMIT PROPOSED AMENDMENTS
5 TO REGULATIONS ADOPTED UNDER THIS SUBTITLE TO BE CONSISTENT WITH THE
6 MARYLAND BUILDING REHABILITATION CODE WITHIN 90 DAYS AFTER ANY
7 AMENDMENTS TO THE MARYLAND BUILDING REHABILITATION CODE ARE ADOPTED
8 BY THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT UNDER
9 SUBTITLE 10 OF THIS TITLE.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 48, § 170.

12 In subsections (a) and (d) of this section, the former references to
13 "definitions" and "rules" are deleted as included in the reference to
14 "regulations". Similarly, in subsections (b) and (c) of this section, the
15 former reference to "rules" is deleted. *See* General Revisor's Note to article.

16 Subsection (b)(2)(v) of this section is revised to reflect the current title of
17 the Code that covers boilers.

18 In subsection (c) of this section, the former reference to regulations to be
19 "promulgated" by the Commissioner is deleted as included in the reference
20 to regulations "adopted" by the Commissioner.

21 Also in subsection (c) of this section, the reference to adopting regulations
22 "in the same manner" as those of the Occupational Safety and Health
23 Advisory Board is deleted because the regulations of that Board are not
24 subject to approval by the Secretary. *See* LE Title 5, Subtitle 3.

25 In subsection (d) of this section, the reference to "amendments" to the
26 Maryland Building Rehabilitation Code is substituted for the former
27 reference to subsequent "revisions" to the MBRC for consistency with
28 terminology used in this subtitle and Subtitle 10 of this title.

29 Defined terms: "Board" § 12-901

30 "Boiler" § 12-901

31 "Commissioner" § 12-901

32 "Pressure vessel" § 12-901

33 "Secretary" § 12-901

34 12-906. INSPECTORS -- CHIEF BOILER INSPECTOR AND DEPUTY BOILER
35 INSPECTORS.

36 (A) APPOINTMENT.

37 (1) WHENEVER THE POSITION OF CHIEF BOILER INSPECTOR OR DEPUTY
38 BOILER INSPECTOR BECOMES VACANT, THE SECRETARY OF BUDGET AND

1 MANAGEMENT AS SOON AS PRACTICABLE SHALL CONDUCT A COMPETITIVE
2 EXAMINATION IN ACCORDANCE WITH TITLE 7 OF THE STATE PERSONNEL AND
3 PENSIONS ARTICLE.

4 (2) THE EXAMINATION SHALL BE THE SAME AS OR EQUIVALENT TO THE
5 EXAMINATION GIVEN BY THE BOARD FOR SPECIAL INSPECTORS UNDER § 12-907 OF
6 THIS SUBTITLE.

7 (3) WITH THE APPROVAL OF THE SECRETARY, THE COMMISSIONER
8 SHALL APPOINT FROM THE SUCCESSFUL CANDIDATES A CHIEF BOILER INSPECTOR
9 OR DEPUTY BOILER INSPECTOR.

10 (B) DUTIES OF CHIEF BOILER INSPECTOR.

11 IF AUTHORIZED BY THE COMMISSIONER, THE CHIEF BOILER INSPECTOR SHALL:

12 (1) TAKE ACTION NECESSARY TO ENFORCE THE REGULATIONS
13 ADOPTED UNDER THIS SUBTITLE AND THE LAWS OF THE STATE THAT GOVERN THE
14 USE OF BOILERS AND PRESSURE VESSELS TO WHICH THIS SUBTITLE APPLIES;

15 (2) KEEP A COMPLETE RECORD OF THE TYPE, DIMENSIONS, MAXIMUM
16 ALLOWABLE PRESSURE, AGE, LOCATION, AND DATE OF THE LAST RECORDED
17 INSPECTION OF EACH BOILER AND EACH PRESSURE VESSEL TO WHICH THIS
18 SUBTITLE APPLIES;

19 (3) ISSUE, AND FOR CAUSE SHOWN, SUSPEND OR REVOKE
20 CERTIFICATES UNDER § 12-911 OF THIS SUBTITLE; AND

21 (4) REFER FOR PROSECUTION EACH PERSON WHO VIOLATES THIS
22 SUBTITLE.

23 (C) DUTIES OF DEPUTY BOILER INSPECTORS.

24 EACH DEPUTY BOILER INSPECTOR:

25 (1) IS RESPONSIBLE TO THE CHIEF BOILER INSPECTOR; AND

26 (2) SHALL PERFORM THE DUTIES THAT THE CHIEF BOILER INSPECTOR
27 DIRECTS.

28 (D) FEES.

29 ALL MONEY RECEIVED BY THE CHIEF BOILER INSPECTOR FROM FEES SHALL
30 BE DEPOSITED IN THE GENERAL FUND.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 48, §§ 173 and 178(c).

33 In subsection (a)(1) of this section, the reference to a "position" becoming
34 vacant is substituted for the former reference to the "office" becoming
35 vacant for accuracy and consistency with terminology used in Title 7 of the

1 State Personnel and Pensions Article.

2 In subsection (a)(3) of this section, the former phrase "as the case may be"
3 is deleted as surplusage.

4 In the introductory language of subsection (b) of this section, the word
5 "shall" is substituted for the former phrase "is hereby charged, directed
6 and empowered to" for brevity and clarity.

7 In subsection (b)(1) of this section, the former reference to the "rules" of the
8 Board is deleted as included in the reference to "regulations". *See* General
9 Revisor's Note to article.

10 Defined terms: "Board" § 12-901

11 "Boiler" § 12-901

12 "Commissioner" § 12-901

13 "Person" § 1-101

14 "Pressure vessel" § 12-901

15 "Secretary" § 12-901

16 12-907. SAME -- SPECIAL INSPECTORS.

17 (A) AUTHORIZATION TO REQUEST SPECIAL INSPECTOR COMMISSIONS.

18 (1) THE FOLLOWING ENTITIES MAY REQUEST THE COMMISSIONER TO
19 ISSUE SPECIAL INSPECTOR COMMISSIONS:

20 (I) AN AUTHORIZED INSURER THAT INSURES BOILERS AND
21 PRESSURE VESSELS IN THE STATE; OR

22 (II) A PERSON THAT OPERATES PRESSURE VESSELS IN THE STATE
23 THAT REGULARLY ARE INSPECTED AND RATED BY AN ESTABLISHED INSPECTION
24 SERVICE UNDER THE SUPERVISION OF ENGINEERS WHOSE QUALIFICATIONS ARE
25 SATISFACTORY TO THE BOARD AND IN ACCORDANCE WITH THE REGULATIONS
26 ADOPTED UNDER THIS SUBTITLE.

27 (2) ON REQUEST OF AN ENTITY DESCRIBED IN PARAGRAPH (1) OF THIS
28 SUBSECTION, THE COMMISSIONER MAY ISSUE A SPECIAL INSPECTOR COMMISSION
29 TO AN INDIVIDUAL EMPLOYED BY THE ENTITY TO SERVE AS A SPECIAL INSPECTOR IF
30 THE ENTITY AND THE INDIVIDUAL SATISFY THE REQUIREMENTS OF THIS SECTION.

31 (B) QUALIFICATIONS OF APPLICANTS.

32 (1) AN APPLICANT FOR A SPECIAL INSPECTOR COMMISSION SHALL BE
33 EMPLOYED BY THE ENTITY THAT REQUESTS THE SPECIAL INSPECTOR COMMISSION.

34 (2) AN APPLICANT FOR A SPECIAL INSPECTOR COMMISSION FOR A
35 PERSON THAT OPERATES PRESSURE VESSELS SHALL:

36 (I) BE EMPLOYED FULL TIME BY THE PERSON; AND

1 (II) BE RESPONSIBLE FOR MAKING INSPECTIONS OF PRESSURE
2 VESSELS THAT ARE USED OR TO BE USED BY THE PERSON AND ARE NOT FOR
3 RESALE.

4 (3) AN APPLICANT FOR A SPECIAL INSPECTOR COMMISSION SHALL:

5 (I) PASS THE EXAMINATION GIVEN BY THE BOARD UNDER
6 SUBSECTION (D) OF THIS SECTION;

7 (II) HOLD A COMMISSION OR CERTIFICATE OF COMPETENCY AS AN
8 INSPECTOR OF BOILERS AND PRESSURE VESSELS IN ANOTHER STATE THAT HAS AN
9 EXAMINATION SUBSTANTIALLY EQUIVALENT TO THE EXAMINATION GIVEN BY THE
10 BOARD; OR

11 (III) 1. HOLD A COMMISSION AS AN INSPECTOR OF BOILERS AND
12 PRESSURE VESSELS ISSUED BY THE NATIONAL BOARD OF BOILER AND PRESSURE
13 VESSEL INSPECTORS; AND

14 2. PASS THE PART OF THE EXAMINATION GIVEN BY THE
15 BOARD THAT DIFFERS FROM THE NATIONAL EXAMINATION.

16 (C) APPLICATIONS FOR SPECIAL INSPECTOR COMMISSIONS.

17 (1) THE EMPLOYER OF AN APPLICANT FOR A SPECIAL INSPECTOR
18 COMMISSION SHALL:

19 (I) SUBMIT TO THE COMMISSIONER AN APPLICATION ON THE
20 FORM THAT THE COMMISSIONER REQUIRES; AND

21 (II) PAY TO THE COMMISSIONER A FEE OF \$50.

22 (2) THE APPLICATION SHALL INCLUDE:

23 (I) THE NAME AND QUALIFICATIONS OF THE INDIVIDUAL WHO
24 WILL SERVE AS A SPECIAL INSPECTOR; AND

25 (II) EVIDENCE THAT THE INDIVIDUAL SATISFIES THE
26 REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.

27 (D) EXAMINATION.

28 (1) THE BOARD SHALL GIVE EXAMINATIONS TO APPLICANTS FOR
29 SPECIAL INSPECTOR COMMISSIONS AS PROVIDED IN THIS SUBSECTION.

30 (2) THE EXAMINATION:

31 (I) SHALL BE IN WRITING;

32 (II) SHALL BE LIMITED TO QUESTIONS THE ANSWERS TO WHICH
33 WILL HELP TO DETERMINE THE FITNESS AND COMPETENCY OF THE INDIVIDUAL
34 FOR THE INTENDED SERVICE; AND

1 (III) MAY CONSIST OF QUESTIONS PREPARED BY THE NATIONAL
2 BOARD OF BOILER AND PRESSURE VESSEL INSPECTORS.

3 (3) (I) AN APPLICANT WHO FAILS THE EXAMINATION MAY APPEAL TO
4 THE BOARD FOR A REEXAMINATION.

5 (II) THE REEXAMINATION SHALL BE GIVEN BY THE BOARD WITHIN
6 90 DAYS.

7 (4) THE RECORD OF AN APPLICANT'S EXAMINATION SHALL BE
8 AVAILABLE TO THE APPLICANT AND THE APPLICANT'S EMPLOYER.

9 (5) THE FEE FOR AN EXAMINATION OR REEXAMINATION IS \$50.

10 (E) ISSUANCE OF SPECIAL INSPECTOR COMMISSION.

11 (1) THE COMMISSIONER SHALL ISSUE A SPECIAL INSPECTOR
12 COMMISSION TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS
13 SUBTITLE.

14 (2) THE COMMISSIONER MAY ISSUE A SPECIAL INSPECTOR COMMISSION
15 TO A REPRESENTATIVE OF AN EMPLOYEE ORGANIZATION COVERED BY A
16 COLLECTIVE BARGAINING AGREEMENT.

17 (F) EXEMPTION FROM INSPECTION FEES.

18 AN INSPECTION BY A SPECIAL INSPECTOR OF A BOILER OR PRESSURE VESSEL
19 INSURED OR PRESSURE VESSEL OPERATED BY THE EMPLOYER OF THE SPECIAL
20 INSPECTOR EXEMPTS THE OWNER OR USER OF THE BOILER OR PRESSURE VESSEL
21 FROM THE PAYMENT TO THE STATE OF INSPECTION FEES REQUIRED BY THIS
22 SUBTITLE FOR THE BOILER OR PRESSURE VESSEL.

23 (G) SALARY.

24 A SPECIAL INSPECTOR MAY NOT RECEIVE A SALARY FROM OR HAVE ANY
25 EXPENSES PAID BY THE STATE.

26 (H) TERM AND RENEWAL OF COMMISSION.

27 (1) A SPECIAL INSPECTOR COMMISSION EXPIRES 2 YEARS AFTER ITS
28 EFFECTIVE DATE.

29 (2) BEFORE A SPECIAL INSPECTOR COMMISSION EXPIRES, THE
30 EMPLOYER OF THE SPECIAL INSPECTOR MAY RENEW THE COMMISSION IF THE
31 EMPLOYER:

32 (I) PAYS TO THE COMMISSIONER A RENEWAL FEE OF \$50; AND

33 (II) SUBMITS EVIDENCE TO THE COMMISSIONER THAT THE
34 SPECIAL INSPECTOR:

- 1 1. MEETS THE STANDARDS IMPOSED BY THIS SUBTITLE;
- 2 2. REMAINS IN THE EMPLOYMENT OF THE EMPLOYER; AND
- 3 3. HAS BEEN TRAINED ON CURRENT BOILER AND PRESSURE
- 4 VESSEL TECHNOLOGY IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER THIS
- 5 SUBTITLE.

6 (I) TERMINATION OF EMPLOYMENT.

7 WITHIN 30 DAYS AFTER THE TERMINATION OF THE EMPLOYMENT OF A SPECIAL
8 INSPECTOR, THE EMPLOYER SHALL RETURN THE SPECIAL INSPECTOR COMMISSION
9 TO THE CHIEF BOILER INSPECTOR.

10 (J) LOST OR DESTROYED IDENTIFICATION CARD.

11 (1) IF AN IDENTIFICATION CARD OF A SPECIAL INSPECTOR IS LOST OR
12 DESTROYED, THE COMMISSIONER SHALL ISSUE A NEW IDENTIFICATION CARD IN ITS
13 PLACE WITHOUT ANOTHER EXAMINATION.

14 (2) THE FEE FOR REPLACEMENT OF AN IDENTIFICATION CARD IS \$50.

15 (K) SUSPENSION OF COMMISSION.

16 (1) AFTER INVESTIGATION AND RECOMMENDATION BY THE BOARD, THE
17 COMMISSIONER MAY SUSPEND THE SPECIAL INSPECTOR COMMISSION FOR:

18 (I) INCOMPETENCE OF THE SPECIAL INSPECTOR;

19 (II) UNTRUSTWORTHINESS OF THE SPECIAL INSPECTOR;

20 (III) WILLFUL FALSIFICATION OF ANY MATTER OR STATEMENT
21 CONTAINED IN THE APPLICATION FOR THE SPECIAL INSPECTOR COMMISSION; OR

22 (IV) WILLFUL FALSIFICATION OF ANY MATTER OR STATEMENT
23 CONTAINED IN A REPORT OF AN INSPECTION MADE BY THE SPECIAL INSPECTOR.

24 (2) WITHIN 10 DAYS AFTER SUSPENDING A SPECIAL INSPECTOR
25 COMMISSION, THE COMMISSIONER SHALL GIVE WRITTEN NOTICE OF THE
26 SUSPENSION TO THE SPECIAL INSPECTOR AND THE EMPLOYER OF THE SPECIAL
27 INSPECTOR.

28 (3) (I) AN INDIVIDUAL WHOSE SPECIAL INSPECTOR COMMISSION HAS
29 BEEN SUSPENDED MAY APPEAL TO THE BOARD.

30 (II) AT THE HEARING ON THE APPEAL, THE INDIVIDUAL MAY BE
31 PRESENT AND REPRESENTED BY COUNSEL.

32 (4) AN INDIVIDUAL WHOSE SPECIAL INSPECTOR COMMISSION HAS
33 BEEN SUSPENDED MAY APPLY FOR REINSTATEMENT OF THE COMMISSION AFTER 90
34 DAYS FOLLOWING THE DATE OF THE SUSPENSION.

1 (L) REVOCATION OF COMMISSION.

2 (1) IF THE BOARD HAS REASON TO BELIEVE THAT A SPECIAL INSPECTOR
3 IS NO LONGER QUALIFIED TO HOLD A COMMISSION, THE BOARD SHALL HOLD A
4 HEARING.

5 (2) THE BOARD SHALL GIVE AT LEAST 10 DAYS' WRITTEN NOTICE OF THE
6 HEARING TO THE SPECIAL INSPECTOR AND TO THE EMPLOYER OF THE SPECIAL
7 INSPECTOR.

8 (3) AT THE HEARING, THE SPECIAL INSPECTOR AND THE EMPLOYER
9 SHALL HAVE AN OPPORTUNITY TO BE HEARD.

10 (4) IF AFTER THE HEARING THE BOARD FINDS THAT THE SPECIAL
11 INSPECTOR IS NO LONGER QUALIFIED TO HOLD A COMMISSION:

12 (I) THE BOARD SHALL RECOMMEND TO THE COMMISSIONER THAT
13 THE SPECIAL INSPECTOR COMMISSION BE REVOKED; AND

14 (II) THE COMMISSIONER SHALL REVOKE THE SPECIAL INSPECTOR
15 COMMISSION IMMEDIATELY.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 48, §§ 174, 175, and 178(b).

18 In subsection (a)(1)(i) of this section, the reference to "an authorized
19 insurer" is substituted for the former reference to "any company licensed to
20 insure" boilers and pressure vessels for accuracy because insurers receive
21 certificates of authority, not licenses, to operate.

22 In subsection (a)(1)(ii) of this section, the phrase "regulations adopted
23 under this subtitle" is substituted for the former phrase "rules and
24 regulations adopted by the Board" for accuracy and consistency with
25 terminology used throughout this subtitle.

26 In subsections (c)(1), (f), (h)(2), and (i) of this section, the references to the
27 "employer" are substituted for the former references to "a company
28 described in subsection (a) of this section", "companies", "the company
29 employing the special inspector", and "the company" for consistency
30 throughout this section.

31 In subsection (d)(2)(ii) of this section, the word "limited" is substituted for
32 the former word "confined" to use a more appropriate word in the context.

33 Subsection (e)(2) of this section is revised to clarify that the Commissioner
34 may issue a special inspector commission to a representative of an
35 employee organization covered by a collective bargaining agreement.

36 In subsection (h)(1) of this section, the former phrase "as defined by
37 regulations adopted by the Commissioner" is deleted as surplusage.

1 %In subsection (h)(2)(ii)3 of this section, the former reference to regulations
2 adopted "by the Commissioner" under this subtitle is deleted as
3 surplusage.

4 Subsection (j) of this section is revised to refer to "identification card[s]" of
5 special inspectors for accuracy and to reflect the longstanding practice of
6 the Commissioner.

7 In subsection (l)(1) of this section, the reference to a "special" inspector is
8 substituted for the former inaccurate reference to a "licensed" inspector
9 because inspectors are not licensed.

10 Defined terms: "Board" § 12-901

11 "Boiler" § 12-901

12 "Commissioner" § 12-901

13 "Person" § 1-101

14 "Pressure vessel" § 12-901

15 12-908. STANDARDS FOR BOILERS AND PRESSURE VESSELS.

16 (A) NEW BOILERS AND PRESSURE VESSELS.

17 (1) A NEW BOILER OR PRESSURE VESSEL MAY NOT BE INSTALLED AND
18 OPERATED IN THE STATE UNLESS:

19 (I) THE BOILER OR PRESSURE VESSEL CONFORMS TO THE
20 REGULATIONS ADOPTED UNDER THIS SUBTITLE THAT GOVERN NEW CONSTRUCTION
21 AND INSTALLATION; OR

22 (II) THE BOARD ISSUES A SPECIAL INSTALLATION AND OPERATING
23 PERMIT FOR THE BOILER OR PRESSURE VESSEL.

24 (2) THE BOARD MAY ISSUE A SPECIAL INSTALLATION AND OPERATING
25 PERMIT FOR A BOILER OR PRESSURE VESSEL IF IT:

26 (I) IS OF SPECIAL DESIGN OR CONSTRUCTION; AND

27 (II) IS NOT INCONSISTENT WITH THE SPIRIT AND SAFETY
28 OBJECTIVES OF THE REGULATIONS ADOPTED UNDER THIS SUBTITLE.

29 (B) EXISTING BOILERS AND PRESSURE VESSELS -- MAXIMUM ALLOWABLE
30 PRESSURE.

31 FOR EXISTING BOILER AND PRESSURE VESSEL INSTALLATIONS:

32 (1) THE MAXIMUM ALLOWABLE PRESSURE OF A BOILER OR PRESSURE
33 VESSEL THAT CARRIES THE ASME CODE SYMBOL SHALL BE DETERMINED BY THE
34 APPLICABLE PROVISIONS OF THE ASME CODE UNDER WHICH IT WAS CONSTRUCTED
35 AND STAMPED; AND

1 (2) THE MAXIMUM ALLOWABLE PRESSURE OF A BOILER OR PRESSURE
2 VESSEL THAT DOES NOT CARRY THE ASME CODE SYMBOL SHALL BE COMPUTED IN
3 ACCORDANCE WITH THE INSPECTION CODE OF THE NATIONAL BOARD OF BOILER
4 AND PRESSURE VESSEL INSPECTORS.

5 (C) SAME -- EFFECT OF SUBTITLE.

6 THIS SUBTITLE DOES NOT PREVENT THE USE, SALE, OR REINSTALLATION OF
7 AN EXISTING BOILER OR PRESSURE VESSEL IF THE BOILER OR PRESSURE VESSEL:

8 (1) HAS BEEN MADE TO CONFORM TO THE REGULATIONS ADOPTED
9 UNDER THIS SUBTITLE THAT GOVERN EXISTING INSTALLATIONS; AND

10 (2) HAS BEEN INSPECTED AND FOUND NOT TO BE IN AN UNSAFE
11 CONDITION.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 48, § 171.

14 In the introductory language of subsection (a)(1) of this section, the former
15 phrase "at any time after twelve (12) months from the date upon which the
16 first rules and regulations under this subtitle pertaining to new
17 construction and installation shall have become effective" is deleted as
18 obsolete because the referenced date has passed. The first regulations were
19 adopted October 15, 1975.

20 In subsections (a)(1)(i) and (2)(ii) and (c)(1) of this section, the former
21 reference to "rules" is deleted as included in the reference to "regulations".
22 *See* General Revisor's Note to article.

23 In the introductory language of subsection (c) of this section, the reference
24 to an "existing" boiler or pressure vessel is substituted for the former
25 reference to a boiler or pressure vessel "referred to in this section" for
26 clarity.

27 Defined terms: "Board" § 12-901

28 "Boiler" § 12-901

29 "Pressure vessel" § 12-901

30 12-909. INSPECTIONS -- IN GENERAL.

31 (A) SCOPE OF SECTION.

32 THE REQUIREMENTS OF THIS SECTION AND §§ 12-910 AND 12-911 OF THIS
33 SUBTITLE DO NOT APPLY TO:

34 (1) A BOILER OR PRESSURE VESSEL THAT IS LOCATED ON A FARM AND
35 USED SOLELY FOR AGRICULTURAL PURPOSES;

1 (2) A HEATING BOILER THAT IS LOCATED IN A PRIVATE RESIDENCE OR
2 AN APARTMENT HOUSE WITH LESS THAN SIX FAMILY UNITS;

3 (3) A PRESSURE VESSEL THAT:

4 (I) CONTAINS ONLY WATER UNDER PRESSURE FOR DOMESTIC
5 SUPPLY PURPOSES, INCLUDING A PRESSURE VESSEL THAT CONTAINS AIR, THE
6 COMPRESSION OF WHICH SERVES ONLY AS A CUSHION OR AIRLIFT PUMPING
7 SYSTEM; AND

8 (II) IS LOCATED IN A PRIVATE RESIDENCE OR AN APARTMENT
9 HOUSE WITH LESS THAN SIX FAMILY UNITS; OR

10 (4) AN EXHIBITION OR ANTIQUE BOILER OR PRESSURE VESSEL,
11 INCLUDING A STEAM OR GAS ENGINE, WHEAT THRESHER, OR ANTIQUE TRACTOR, IF
12 THE BOILER OR PRESSURE VESSEL:

13 (I) HAS BEEN INSPECTED AND ISSUED A CERTIFICATE OF SAFETY
14 BY ANOTHER STATE THAT HAS SAFETY REQUIREMENTS EQUAL TO OR GREATER
15 THAN THOSE OF THIS STATE; AND

16 (II) HAS BEEN BROUGHT INTO THIS STATE TO BE USED IN A
17 TEMPORARY EXHIBIT OR SHOW.

18 (B) ACCESS TO PREMISES.

19 THE CHIEF BOILER INSPECTOR OR A DEPUTY BOILER INSPECTOR SHALL HAVE
20 FREE ACCESS, DURING REASONABLE HOURS, TO ANY PREMISES IN THE STATE:

21 (1) TO DETERMINE WHETHER A BOILER OR PRESSURE VESSEL IS BEING
22 CONSTRUCTED FOR USE OR INSTALLED IN THE STATE IN ACCORDANCE WITH THIS
23 SUBTITLE;

24 (2) TO INSPECT OR INVESTIGATE AN ACCIDENT OR EXPLOSION THAT
25 INVOLVES A BOILER OR PRESSURE VESSEL; OR

26 (3) TO MAKE AN INSPECTION REQUIRED UNDER THIS SUBTITLE.

27 (C) CERTIFICATE INSPECTIONS -- DUTY TO MAKE.

28 (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS
29 SUBSECTION, THE CHIEF BOILER INSPECTOR OR A DEPUTY BOILER INSPECTOR
30 SHALL MAKE THE CERTIFICATE INSPECTIONS REQUIRED UNDER SUBSECTION (D) OF
31 THIS SECTION.

32 (2) IF A BOILER OR PRESSURE VESSEL IS INSURED BY AN INSURER, A
33 SPECIAL INSPECTOR EMPLOYED BY THE INSURER SHALL MAKE THE INSPECTIONS
34 REQUIRED UNDER SUBSECTION (D) OF THIS SECTION.

35 (3) IF A PRESSURE VESSEL IS OWNED OR OPERATED BY A PERSON WHO
36 EMPLOYS A SPECIAL INSPECTOR WHO HOLDS A COMMISSION, THE SPECIAL

1 INSPECTOR SHALL MAKE THE INSPECTIONS REQUIRED UNDER SUBSECTION (D) OF
2 THIS SECTION.

3 (D) SAME -- REQUIRED.

4 (1) EXCEPT FOR BOILERS AND PRESSURE VESSELS EXEMPT UNDER
5 SUBSECTION (A) OF THIS SECTION OR § 12-903 OF THIS SUBTITLE, EACH BOILER AND
6 EACH PRESSURE VESSEL THAT IS USED OR PROPOSED TO BE USED IN THE STATE
7 SHALL BE INSPECTED THOROUGHLY AS TO ITS CONSTRUCTION, INSTALLATION, AND
8 CONDITION IN ACCORDANCE WITH THIS SUBSECTION.

9 (2) A CERTIFICATE INSPECTION REQUIRED UNDER THIS SUBSECTION
10 SHALL BE:

11 (I) AN INTERNAL INSPECTION IF CONSTRUCTION ALLOWS; OR

12 (II) AN INSPECTION THAT IS AS COMPLETE AS POSSIBLE.

13 (3) (I) A POWER BOILER OR A HIGH PRESSURE, HIGH TEMPERATURE
14 WATER BOILER SHALL:

15 1. RECEIVE A CERTIFICATE INSPECTION ANNUALLY; AND

16 2. BE EXTERNALLY INSPECTED ANNUALLY WHILE UNDER
17 PRESSURE, IF POSSIBLE.

18 (II) THE BOARD MAY EXTEND TO 2 YEARS THE INTERVAL BETWEEN
19 CERTIFICATE INSPECTIONS OF A POWER BOILER IF:

20 1. THE POWER BOILER HAS INTERNAL CONTINUOUS WATER
21 TREATMENT UNDER THE GENERAL SUPERVISION OF A PROFESSIONAL ENGINEER
22 WHO HAS EXPERIENCE IN THE TREATMENT OF BOILER WATER; AND

23 2. THE OWNER OR USER OF THE POWER BOILER KEEPS
24 AVAILABLE, FOR EXAMINATION BY THE CHIEF BOILER INSPECTOR OR BY A DEPUTY
25 BOILER INSPECTOR OR SPECIAL INSPECTOR, ACCURATE RECORDS THAT SHOW:

26 A. THE DATE, TIME, AND REASON THAT THE POWER BOILER
27 IS OUT OF SERVICE; AND

28 B. A CHEMICAL AND PHYSICAL ANALYSIS OF SAMPLES OF
29 THE BOILER WATER TAKEN AT REGULAR INTERVALS OF NOT MORE THAN 48 HOURS
30 OF OPERATION THAT ADEQUATELY SHOW THE CONDITION OF THE BOILER WATER
31 AND ANY ELEMENTS OR CHARACTERISTICS OF THE BOILER WATER THAT ARE
32 CAPABLE OF PRODUCING CORROSION OR OTHER DETERIORATION OF THE POWER
33 BOILER OR ITS PARTS.

34 (4) A HEATING BOILER SHALL RECEIVE A CERTIFICATE INSPECTION
35 BIENNIALY.

1 (5) (I) A PRESSURE VESSEL THAT IS SUBJECT TO INTERNAL
2 CORROSION SHALL RECEIVE A CERTIFICATE INSPECTION BIENNIALY.

3 (II) A PRESSURE VESSEL THAT IS NOT SUBJECT TO INTERNAL
4 CORROSION SHALL RECEIVE A CERTIFICATE INSPECTION AT INTERVALS SET BY THE
5 BOARD.

6 (III) INTERNAL INSPECTION IS NOT REQUIRED OF A PRESSURE
7 VESSEL IF:

8 1. THE CONTENTS OF THE PRESSURE VESSEL ARE KNOWN
9 TO BE NONCORROSIVE TO THE MATERIAL OF WHICH THE SHELL, HEADS, OR
10 FITTINGS ARE CONSTRUCTED:

11 A. FROM THE CHEMICAL COMPOSITION OF THE CONTENTS;
12 OR

13 B. FROM EVIDENCE THAT THE CONTENTS ARE ADEQUATELY
14 TREATED WITH A CORROSION INHIBITOR; AND

15 2. THE PRESSURE VESSEL IS CONSTRUCTED IN
16 ACCORDANCE WITH REGULATIONS ADOPTED UNDER THIS SUBTITLE.

17 (6) A NUCLEAR VESSEL WITHIN THE SCOPE OF THIS SUBTITLE SHALL BE
18 INSPECTED AND REPORTED IN A FORM AND WITH APPROPRIATE INFORMATION
19 DESIGNATED BY THE BOARD.

20 (E) HYDROSTATIC TEST.

21 IF, AT THE DISCRETION OF THE INSPECTOR, A HYDROSTATIC TEST IS
22 CONSIDERED NECESSARY, THE OWNER OR USER OF A BOILER OR PRESSURE VESSEL
23 SHALL MAKE THE HYDROSTATIC TEST.

24 (F) INSTALLATION OF NEW BOILER OR PRESSURE VESSEL.

25 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AT
26 LEAST 30 DAYS BEFORE INSTALLING A BOILER OR PRESSURE VESSEL COVERED BY
27 THIS SUBTITLE, THE PERSON WHO WILL PERFORM THE INSTALLATION SHALL GIVE
28 THE COMMISSIONER NOTICE OF THE INSTALLATION IN ACCORDANCE WITH
29 REGULATIONS ADOPTED UNDER THIS SUBTITLE.

30 (2) UNDER EMERGENCY CIRCUMSTANCES, THE PERSON WHO WILL
31 PERFORM THE INSTALLATION OF A BOILER OR PRESSURE VESSEL MAY GIVE THE
32 COMMISSIONER NOTICE OF THE INSTALLATION LESS THAN 30 DAYS BEFORE
33 INSTALLATION IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER THIS
34 SUBTITLE.

35 (3) EXCEPT FOR A CAST-IRON SECTIONAL BOILER OR PRESSURE
36 VESSEL, EACH BOILER TO BE INSTALLED IN THE STATE SHALL BE INSPECTED:

1 (I) DURING CONSTRUCTION OR FIELD ASSEMBLY, AS REQUIRED
2 BY REGULATIONS ADOPTED UNDER THIS SUBTITLE, BY AN INSPECTOR AUTHORIZED
3 TO INSPECT BOILERS AND PRESSURE VESSELS IN THE STATE; OR

4 (II) IF THE BOILER IS CONSTRUCTED OUTSIDE THE STATE, BY AN
5 INSPECTOR WHO HOLDS A COMMISSION ISSUED BY THE NATIONAL BOARD OF
6 BOILER AND PRESSURE VESSEL INSPECTORS.

7 (G) ACCIDENTS OR EXPLOSIONS.

8 (1) WITHIN 24 HOURS AFTER AN ACCIDENT OR EXPLOSION, THE OWNER
9 OR USER OF A BOILER OR PRESSURE VESSEL SHALL GIVE THE CHIEF BOILER
10 INSPECTOR NOTICE OF THE ACCIDENT OR EXPLOSION IN ACCORDANCE WITH
11 REGULATIONS ADOPTED UNDER THIS SUBTITLE.

12 (2) ON NOTIFICATION OR INFORMATION, THE CHIEF BOILER INSPECTOR
13 OR A DEPUTY BOILER INSPECTOR SHALL INVESTIGATE EACH ACCIDENT OR
14 EXPLOSION THAT INVOLVES A BOILER OR PRESSURE VESSEL COVERED BY THIS
15 SUBTITLE.

16 (H) INTERPRETATION AND APPLICATION OF INSPECTION REQUIREMENTS.

17 (1) THE BOARD SHALL PROVIDE FOR PUBLIC SAFETY AND THEREFORE
18 HAS JURISDICTION OVER THE INTERPRETATION AND APPLICATION OF THE
19 INSPECTION REQUIREMENTS PROVIDED IN THE REGULATIONS ADOPTED UNDER
20 THIS SUBTITLE.

21 (2) INSPECTION REQUIREMENTS OF OPERATING EQUIPMENT SHALL:

22 (I) BE IN ACCORDANCE WITH GENERALLY ACCEPTED PRACTICE;
23 AND

24 (II) BE COMPATIBLE WITH THE ACTUAL SERVICE CONDITIONS,
25 INCLUDING:

26 1. PREVIOUS EXPERIENCE, BASED ON RECORDS OF
27 PERFORMANCE AND MAINTENANCE;

28 2. LOCATION, WITH RESPECT TO PERSONNEL HAZARD;

29 3. PROVISION FOR RELATED SAFE OPERATION CONTROLS;
30 AND

31 4. INTERRELATION WITH OTHER OPERATIONS OUTSIDE THE
32 SCOPE OF THIS SUBTITLE.

33 (I) INSPECTION FEES.

34 THE OWNER OR USER OF A BOILER OR PRESSURE VESSEL REQUIRED BY THIS
35 SUBTITLE TO BE INSPECTED BY THE CHIEF BOILER INSPECTOR OR A DEPUTY BOILER
36 INSPECTOR SHALL PAY DIRECTLY TO THE CHIEF BOILER INSPECTOR, ON

1 COMPLETION OF THE INSPECTION, A FEE IN ACCORDANCE WITH THE FOLLOWING
2 SCHEDULE:

3 (1) CERTIFICATE INSPECTION:

4 (I) INITIAL CERTIFICATE INSPECTION OF A BOILER OR PRESSURE
5 VESSEL NOT PREVIOUSLY INSPECTED IN THE STATE..... NO CHARGE

6 (II) CERTIFICATE INSPECTION OF A BOILER OR PRESSURE VESSEL,
7 OTHER THAN A PRESSURE VESSEL ATTACHED TO AN AIR COMPRESSOR, PREVIOUSLY
8 INSPECTED IN THE STATE..... \$40

9 (III) CERTIFICATE INSPECTION OF A PRESSURE VESSEL, ATTACHED
10 TO AN AIR COMPRESSOR, PREVIOUSLY INSPECTED IN THE STATE \$10

11 (IV) CERTIFICATE INSPECTION OF AN ADDITIONAL BOILER OR
12 PRESSURE VESSEL PREVIOUSLY INSPECTED IN THE STATE, AT THE SAME LOCATION,
13 ON THE SAME DATE..... \$10

14 (V) FOLLOW-UP INSPECTION TO DETERMINE COMPLIANCE \$50

15 (2) INSPECTION OF AN ANTIQUE OR MODEL STEAM BOILER OR
16 PRESSURE VESSEL..... \$15

17 (3) INVESTIGATION OF AN ACCIDENT OR COMPLAINTNO CHARGE

18 (4) SPECIAL INSPECTION, SUCH AS AN INSPECTION AT A FABRICATION
19 OR REPAIR FACILITY, ASME JOINT REVIEW, OR NATIONAL BOARD OF INSPECTION
20 CODE REPAIR REVIEW, SHALL BE CHARGED AT THE FOLLOWING RATES, AND SHALL
21 INCLUDE ALL EXPENSES SUCH AS TRAVEL AND HOTEL COSTS:

22 (I) HALF DAY (UP TO 4 HOURS) \$250

23 (II) FULL DAY (UP TO 8 HOURS)..... \$500

24 REVISOR'S NOTE: Subsections (a), (b), (c)(1) and (2), and (d) through (i) of this
25 section are new language derived without substantive change from former
26 Art. 48, §§ 176, 172(b), 178(a), and the second sentence of 168(c).

27 Subsection (c)(3) of this section is new language added to state explicitly
28 that which only was implied in the former law. Under § 12-907 of this
29 subtitle, owners of pressure vessels may employ special inspectors to make
30 inspections of pressure vessels.

31 In subsection (a)(4)(i) of this section, the former reference to a "valid"
32 certificate of safety is deleted as surplusage.

33 In subsection (c)(2) of this section, the reference to an "insurer" is
34 substituted for the former reference to an "insurance company" for
35 consistency with terminology used in the Insurance Article.

1 %In subsection (d)(1) of this section, the former phrase "[o]n and after July 1,
2 1969" is deleted as obsolete.

3 In subsection (d)(2) of this section, the former word "otherwise" is deleted
4 as unnecessary in light of the conjunction "or".

5 In subsection (d)(3)(ii)1 of this section, the former reference to a
6 professional engineer who is "licensed" is deleted as unnecessary because
7 the use of the term "professional engineer" includes the concept of holding
8 a license as a professional engineer. *See* Title 14 of the Business
9 Occupations and Professions Article.

10 In subsection (d)(3)(ii)2A of this section, the former reference to the
11 "actual" time the boiler is out of service is deleted as implicit.

12 In subsections (d)(5)(iii)2, (f)(1), (2), and (3)(i), and (h)(1) of this section, the
13 reference to "regulations adopted under this subtitle" is substituted for the
14 former references to "the rules and regulations of the Board", "regulations
15 adopted by the Commissioner", and "rules and regulations which it [the
16 Board] has formulated" for clarity and consistency throughout this
17 subtitle.

18 In subsection (f)(3) of this section, the former phrase "after the 12-month
19 period from the date upon which the rules and regulations of the Board
20 shall become effective" is deleted as obsolete as that date has passed.

21 In subsection (h)(1) of this section, the reference to "public safety" is
22 substituted for the former reference to the "safety of life, limb and
23 property" for brevity and consistency.

24 Throughout subsection (i)(1) of this section, the reference to a boiler or
25 pressure vessel previously "inspected" is substituted for the former
26 reference to a boiler or pressure vessel previously "registered" for
27 consistency and accuracy.

28 Defined terms: "Board" § 12-901

29 "Boiler" § 12-901

30 "Certificate inspection" § 12-901

31 "Commissioner" § 12-901

32 "Heating boiler" § 12-901

33 "High pressure, high temperature water boiler" § 12-901

34 "Person" § 1-101

35 "Power boiler" § 12-901

36 "Pressure vessel" § 12-901

37 "State" § 1-101

38 12-910. SAME -- REPORTS BY SPECIAL INSPECTORS.

39 (A) INSURERS.

1 (1) EACH AUTHORIZED INSURER THAT EMPLOYS A SPECIAL INSPECTOR
2 SHALL FILE WITH THE CHIEF BOILER INSPECTOR A REPORT ON:

3 (I) EACH CERTIFICATE INSPECTION; AND

4 (II) ANY OTHER INSPECTION FOR WHICH A REPORT IS REQUIRED
5 TO BE FILED UNDER REGULATIONS ADOPTED UNDER THIS SUBTITLE.

6 (2) THE REPORT FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION
7 SHALL:

8 (I) BE FILED WITHIN 30 DAYS AFTER AN INSPECTION; AND

9 (II) BE IN THE FORM REQUIRED BY REGULATIONS ADOPTED
10 UNDER THIS SUBTITLE.

11 (3) FOR EACH REPORT NOT FILED ELECTRONICALLY, THE AUTHORIZED
12 INSURER SHALL PAY A \$5 REPORT FILING FEE.

13 (4) WITHIN 24 HOURS AFTER AN INSPECTION, EACH AUTHORIZED
14 INSURER THAT EMPLOYS A SPECIAL INSPECTOR SHALL NOTIFY THE CHIEF BOILER
15 INSPECTOR IF AN INSPECTION REVEALS A HAZARDOUS CONDITION AS DESCRIBED IN
16 § 12-915(A)(2) OF THIS SUBTITLE THAT AFFECTS THE SAFETY OF A BOILER OR
17 PRESSURE VESSEL.

18 (B) OWNER-USER INSPECTION SERVICE.

19 (1) EACH PERSON THAT OPERATES PRESSURE VESSELS COVERED BY AN
20 OWNER-USER INSPECTION SERVICE THAT MEETS THE REQUIREMENTS OF THIS
21 SUBTITLE SHALL MAINTAIN IN ITS FILES AN INSPECTION RECORD THAT LISTS, BY
22 NUMBER AND BY AN ABBREVIATED IDENTIFICATION DESCRIPTION:

23 (I) EACH PRESSURE VESSEL COVERED BY THIS SUBTITLE;

24 (II) THE DATE OF THE LAST INSPECTION OF THE PRESSURE
25 VESSEL; AND

26 (III) THE APPROXIMATE DATE FOR THE NEXT INSPECTION OF THE
27 PRESSURE VESSEL, CALCULATED BY APPLYING THE APPROPRIATE RULES FOR
28 INSPECTION TO ALL DATA AVAILABLE WHEN THE INSPECTION RECORD IS
29 COMPILED.

30 (2) THE INSPECTION RECORD SHALL BE READILY AVAILABLE FOR
31 EXAMINATION BY THE CHIEF BOILER INSPECTOR OR AUTHORIZED REPRESENTATIVE
32 DURING BUSINESS HOURS.

33 (3) (I) IN ADDITION, THE PERSON SHALL FILE ANNUALLY WITH THE
34 CHIEF BOILER INSPECTOR A STATEMENT THAT:

35 1. IS SIGNED BY THE PROFESSIONAL ENGINEER WHO
36 SUPERVISED THE INSPECTIONS MADE DURING THE PERIOD COVERED;

1 2. STATES THE NUMBER OF PRESSURE VESSELS COVERED
2 BY THIS SUBTITLE THAT WERE INSPECTED DURING THE YEAR; AND

3 3. CERTIFIES THAT EACH INSPECTION WAS CONDUCTED IN
4 ACCORDANCE WITH THE INSPECTION REQUIREMENTS OF THIS SUBTITLE.

5 (II) THE STATEMENT SHALL BE ACCOMPANIED BY A FILING FEE
6 OF:

7 1. \$5 PER PRESSURE VESSEL, FOR A STATEMENT THAT
8 COVERS NOT MORE THAN 25 PRESSURE VESSELS;

9 2. \$125, FOR A STATEMENT THAT COVERS MORE THAN 25
10 BUT LESS THAN 101 PRESSURE VESSELS;

11 3. \$250, FOR A STATEMENT THAT COVERS MORE THAN 100
12 BUT LESS THAN 501 PRESSURE VESSELS; OR

13 4. \$325, FOR A STATEMENT THAT COVERS MORE THAN 500
14 PRESSURE VESSELS.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 48, § 177(a) and (b).

17 In subsection (a)(1) of this section, the reference to an "authorized insurer"
18 is substituted for the former reference to "each company" employing a
19 special inspector for accuracy. *See* § 12-907(a) of this subtitle.
20 Consequently, in subsection (a)(3) and (4) of this section, the references to
21 the "authorized insurer" are added.

22 Also in subsection (a)(1) of this section, the former phrase "[e]xcept for a
23 company operating pressure vessels covered by an owner-user inspection
24 service meeting the requirements of this subtitle" is deleted as
25 unnecessary in light of the revision of this subsection, which only applies to
26 authorized insurers.

27 In subsection (b)(1) and (3) of this section, the reference to a "person" that
28 operates pressure vessels is substituted for the former reference to a
29 "company" for consistency with § 12-907(a) of this subtitle.

30 In subsection (b)(1) of this section, the reference to an "owner-user"
31 inspection service is substituted for the former reference to an "owner or
32 user" inspection service for clarity and consistency throughout this
33 subtitle.

34 In subsection (b)(3)(i)1 of this section, the reference to a "professional"
35 engineer is added for clarity.

36 Defined terms: "Boiler" § 12-901

37 "Certificate inspection" § 12-901

1 "Person" § 1-101

2 "Pressure vessel" § 12-901

3 12-911. SAME -- CERTIFICATES.

4 (A) ISSUANCE.

5 IF THE REPORT FILED IN ACCORDANCE WITH § 12-910(A) OF THIS SUBTITLE
6 SHOWS THAT A BOILER OR PRESSURE VESSEL COMPLIES WITH REGULATIONS
7 ADOPTED UNDER THIS SUBTITLE, THE CHIEF BOILER INSPECTOR SHALL ISSUE TO
8 THE OWNER OR USER OF THE BOILER OR PRESSURE VESSEL A CERTIFICATE THAT
9 BEARS THE DATE OF INSPECTION AND SPECIFIES THE MAXIMUM PRESSURE UNDER
10 WHICH THE BOILER OR PRESSURE VESSEL MAY BE OPERATED.

11 (B) TERM.

12 UNLESS THE BOARD HAS EXTENDED THE INTERVAL BETWEEN CERTIFICATE
13 INSPECTIONS AS AUTHORIZED BY THIS SUBTITLE, THE CERTIFICATE IS VALID FOR:

14 (1) NOT MORE THAN 12 MONTHS AFTER ITS DATE OF ISSUANCE FOR A
15 POWER BOILER OR HIGH PRESSURE, HIGH TEMPERATURE WATER BOILER; AND

16 (2) NOT MORE THAN 24 MONTHS AFTER ITS DATE OF ISSUANCE FOR A
17 LOW PRESSURE STEAM OR VAPOR HEATING BOILER, HOT WATER HEATING BOILER,
18 HOT WATER SUPPLY BOILER, OR PRESSURE VESSEL.

19 (C) POSTING.

20 (1) THE CERTIFICATE SHALL BE POSTED UNDER GLASS IN THE ROOM
21 THAT CONTAINS THE BOILER OR PRESSURE VESSEL THAT WAS INSPECTED.

22 (2) IF THE BOILER OR PRESSURE VESSEL IS NOT LOCATED IN A
23 BUILDING, THE CERTIFICATE SHALL BE POSTED IN A LOCATION CONVENIENT TO
24 THE BOILER OR PRESSURE VESSEL THAT WAS INSPECTED OR IN ANY PLACE WHERE
25 THE CERTIFICATE WILL BE ACCESSIBLE TO INTERESTED PARTIES.

26 (D) SUSPENSION.

27 (1) THE CHIEF BOILER INSPECTOR OR AN AUTHORIZED DEPUTY BOILER
28 INSPECTOR MAY SUSPEND A CERTIFICATE AT ANY TIME WHEN, IN THE OPINION OF
29 THE INSPECTOR, THE BOILER OR PRESSURE VESSEL FOR WHICH THE CERTIFICATE
30 WAS ISSUED:

31 (I) CANNOT BE OPERATED WITHOUT DANGER TO PUBLIC SAFETY;
32 OR

33 (II) IS FOUND NOT TO COMPLY WITH REGULATIONS ADOPTED
34 UNDER THIS SUBTITLE.

35 (2) THE SUSPENSION OF A CERTIFICATE CONTINUES UNTIL:

1 (I) THE BOILER OR PRESSURE VESSEL IS MADE TO CONFORM TO
2 THE REGULATIONS ADOPTED UNDER THIS SUBTITLE; AND

3 (II) THE CERTIFICATE IS REINSTATED.

4 (E) INSURANCE CEASES.

5 IF A BOILER OR PRESSURE VESSEL FOR WHICH A CERTIFICATE WAS ISSUED
6 BASED ON THE REPORT OF A SPECIAL INSPECTOR CEASES TO BE INSURED BY AN
7 AUTHORIZED INSURER, THE CERTIFICATE IS INVALID.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 48, § 177(c), (d), and (e).

10 In subsections (a) and (d)(1)(ii) and (2)(i) of this section, the reference to
11 "regulations adopted under this subtitle" is substituted for the former
12 references to "the rules and regulations of the Board" and "the rules and
13 regulations herein provided" for clarity and consistency throughout this
14 subtitle.

15 In subsection (e) of this section, the reference to an "authorized insurer" is
16 substituted for the former reference to a "company duly authorized by this
17 State to provide such insurance" for clarity and consistency throughout
18 this subtitle.

19 Defined terms: "Board" § 12-901

20 "Boiler" § 12-901

21 "Certificate" § 12-901

22 "Certificate inspection" § 12-901

23 "Heating boiler" § 12-901

24 "High pressure, high temperature water boiler" § 12-901

25 "Power boiler" § 12-901

26 "Pressure vessel" § 12-901

27 12-912. DUTIES OF OWNERS OR USERS.

28 THE OWNER OR USER OF A BOILER OR PRESSURE VESSEL SHALL:

29 (1) ENSURE THAT THE BOILER OR PRESSURE VESSEL IS OPERATED,
30 INSPECTED, AND REPAIRED IN ACCORDANCE WITH THIS SUBTITLE AND
31 REGULATIONS ADOPTED UNDER THIS SUBTITLE;

32 (2) MAINTAIN A COPY OF INSPECTION, MAINTENANCE, AND REPAIR
33 RECORDS AT A CENTRAL LOCATION IN ACCORDANCE WITH REGULATIONS ADOPTED
34 UNDER THIS SUBTITLE; AND

35 (3) MAKE INSPECTION, MAINTENANCE, AND REPAIR RECORDS
36 AVAILABLE TO THE INSPECTOR REQUIRED TO INSPECT THE BOILER OR PRESSURE
37 VESSEL.

1 REVISOR'S NOTE: This section formerly was Art. 48, § 176B.

2 The only changes are in style.

3 Defined terms: "Boiler" § 12-901

4 "Pressure vessel" § 12-901

5 12-913. DUTIES OF AUTHORIZED INSURERS.

6 (A) IN GENERAL.

7 AN AUTHORIZED INSURER THAT PROVIDES INSURANCE COVERAGE FOR
8 BOILERS OR PRESSURE VESSELS IN THE STATE SHALL:

9 (1) CONDUCT THE CERTIFICATE INSPECTION FOR EACH BOILER AND
10 PRESSURE VESSEL THAT THE INSURER INSURES BY THE DATE THE CERTIFICATE
11 INSPECTION IS DUE;

12 (2) FILE WITH THE CHIEF BOILER INSPECTOR THE REPORTS REQUIRED
13 UNDER § 12-910 OF THIS SUBTITLE;

14 (3) DEVELOP, MAINTAIN, SUBMIT, AND UPDATE, AS DEFINED BY
15 REGULATION, A DATABASE OF ALL BOILERS AND PRESSURE VESSELS THAT THE
16 INSURER INSURES IN THE STATE AND TRACK THE DATE WHEN THE CERTIFICATE
17 INSPECTION FOR EACH BOILER OR PRESSURE VESSEL IS DUE TO ENSURE THAT THE
18 CERTIFICATE INSPECTIONS ARE DUE AND COMPLETED AS REQUIRED UNDER THIS
19 SUBTITLE; AND

20 (4) DEVELOP, MAINTAIN, AND MAKE AVAILABLE TO THE
21 COMMISSIONER A QUALITY ASSURANCE PROGRAM IN ACCORDANCE WITH
22 REGULATIONS ADOPTED UNDER THIS SUBTITLE.

23 (B) MULTIPLE INSURERS OR OWNER-USERS.

24 IF MORE THAN ONE INSURER PROVIDES INSURANCE COVERAGE FOR A BOILER
25 OR PRESSURE VESSEL OR IF AN OWNER-USER EMPLOYS AN INDIVIDUAL WITH A
26 SPECIAL INSPECTOR COMMISSION, THE INSURERS OR OWNER-USER:

27 (1) MAY AGREE TO COORDINATE CERTIFICATE INSPECTIONS TO ENSURE
28 THAT THE BOILER OR PRESSURE VESSEL IS INSPECTED; AND

29 (2) SHALL ENSURE THAT RESPONSIBILITY FOR THE CERTIFICATE
30 INSPECTION IS CLEARLY DEFINED.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 48, § 176C.

33 Throughout this section, references to the "insurer" are substituted for the
34 former references to the "company" and the "insurance company" for
35 consistency throughout this section and this subtitle.

1 %In subsection (a)(1) of this section, the former reference to each "covered"
2 boiler and pressure vessel is deleted as implicit.

3 In subsection (b)(1) and (2) of this section, the references to "certificate"
4 inspections are added for clarity.

5 Defined terms: "Boiler" § 12-901

6 "Certificate inspection" § 12-901

7 "Commissioner" § 12-901

8 "Pressure vessel" § 12-901

9 12-914. DUTIES OF PERSONS WHO ALTER OR REPAIR BOILERS AND PRESSURE
10 VESSELS.

11 A PERSON WHO REPAIRS OR ALTERS A BOILER OR PRESSURE VESSEL SHALL:

12 (1) GIVE NOTICE TO AND OBTAIN APPROVAL FROM THE CHIEF BOILER
13 INSPECTOR, A DEPUTY BOILER INSPECTOR, OR A SPECIAL INSPECTOR BEFORE
14 BEGINNING A REPAIR OR ALTERATION THAT:

15 (I) AFFECTS THE WORKING PRESSURE OR SAFETY OF A BOILER OR
16 PRESSURE VESSEL; OR

17 (II) INVOLVES FUSION WELDING;

18 (2) REPAIR THE BOILER OR PRESSURE VESSEL IN ACCORDANCE WITH
19 REGULATIONS ADOPTED UNDER THIS SUBTITLE; AND

20 (3) PROVIDE REPORTS, AS REQUIRED BY REGULATIONS ADOPTED
21 UNDER THIS SUBTITLE, TO THE CHIEF BOILER INSPECTOR AND THE OWNER OF THE
22 BOILER OR PRESSURE VESSEL.

23 REVISOR'S NOTE: This section formerly was Art. 48, § 176D.

24 The only changes are in style.

25 Defined terms: "Boiler" § 12-901

26 "Person" § 1-101

27 "Pressure vessel" § 12-901

28 12-915. PROHIBITION ON USE OF BOILER OR PRESSURE VESSEL.

29 (A) GROUNDS.

30 ON INSPECTION, THE CHIEF BOILER INSPECTOR OR AN AUTHORIZED DEPUTY
31 BOILER INSPECTOR MAY PROHIBIT THE USE OF A BOILER OR PRESSURE VESSEL IF
32 THE INSPECTOR DETERMINES THAT:

33 (1) THE BOILER OR PRESSURE VESSEL OR PART OF IT VIOLATES A
34 STANDARD, SAFETY CODE, OR REGULATION ADOPTED UNDER THIS SUBTITLE; AND

1 (2) THERE IS SUBSTANTIAL PROBABILITY THAT DEATH, SERIOUS
2 PHYSICAL HARM, OR SERIOUS DAMAGE TO PROPERTY COULD RESULT FROM
3 CONTINUED USE OF THE BOILER OR PRESSURE VESSEL.

4 (B) NOTICE.

5 (1) TO PROHIBIT THE USE OF A BOILER OR PRESSURE VESSEL, THE
6 CHIEF BOILER INSPECTOR OR AN AUTHORIZED DEPUTY BOILER INSPECTOR SHALL
7 GIVE THE OWNER OR THE OWNER'S AGENT NOTICE THAT USE OF THE BOILER OR
8 PRESSURE VESSEL IS PROHIBITED.

9 (2) THE NOTICE SHALL DESCRIBE, IN DETAIL:

10 (I) THE NATURE OF EACH ALLEGED VIOLATION;

11 (II) THE REASON FOR THE PROHIBITION FROM USE;

12 (III) THE PENALTIES OF THIS SUBTITLE; AND

13 (IV) IF APPROPRIATE, A RECOMMENDATION ON HOW TO CORRECT
14 THE VIOLATION.

15 (C) POSTING OF NOTICE; REMOVAL.

16 A COPY OF THE NOTICE UNDER SUBSECTION (B) OF THIS SECTION:

17 (1) SHALL BE ATTACHED TO THE BOILER OR PRESSURE VESSEL; AND

18 (2) MAY NOT BE REMOVED BY ANY PERSON EXCEPT THE CHIEF BOILER
19 INSPECTOR OR AN AUTHORIZED DEPUTY BOILER INSPECTOR UNTIL THE CHIEF
20 BOILER INSPECTOR OR AN AUTHORIZED DEPUTY BOILER INSPECTOR DETERMINES
21 THAT:

22 (I) EACH VIOLATION DESCRIBED IN THE NOTICE HAS BEEN
23 CORRECTED; AND

24 (II) THE THREAT OF DEATH, SERIOUS PHYSICAL HARM, OR
25 SERIOUS DAMAGE TO PROPERTY RESULTING FROM THE VIOLATION HAS BEEN
26 ELIMINATED.

27 (D) USE PROHIBITED WHILE NOTICE POSTED.

28 USE OF A BOILER OR PRESSURE VESSEL IS PROHIBITED WHILE A NOTICE
29 UNDER SUBSECTION (B) OF THIS SECTION IS POSTED ON THE BOILER OR PRESSURE
30 VESSEL.

31 (E) CIVIL PENALTY.

32 IF THE OWNER OR USER OF A BOILER OR PRESSURE VESSEL CONTINUES TO
33 USE A BOILER OR PRESSURE VESSEL AFTER NOTICE IS ISSUED UNDER SUBSECTION
34 (B) OF THIS SECTION, THE COMMISSIONER MAY ASSESS A CIVIL PENALTY AGAINST

1 THE OWNER OR USER NOT EXCEEDING \$1,000 PER DAY FOR EACH BOILER OR
2 PRESSURE VESSEL IN VIOLATION.

3 (F) ACTION TO MODIFY OR VACATE DECISION.

4 (1) AN OWNER OR USER WHO IS AGGRIEVED BY A DECISION OF THE
5 COMMISSIONER, THE CHIEF BOILER INSPECTOR, OR AN AUTHORIZED DEPUTY
6 BOILER INSPECTOR UNDER THIS SECTION MAY BRING AN ACTION TO MODIFY OR
7 VACATE THE DECISION ON THE GROUND THAT IT IS UNLAWFUL.

8 (2) AN ACTION UNDER THIS SUBSECTION MAY BE BROUGHT IN THE
9 CIRCUIT COURT FOR BALTIMORE CITY OR IN THE CIRCUIT COURT FOR THE COUNTY
10 WHERE THE BOILER OR PRESSURE VESSEL IS LOCATED.

11 (3) IN A PROCEEDING UNDER THIS SUBSECTION, A COURT MAY NOT
12 STAY A DECISION OF THE COMMISSIONER, THE CHIEF BOILER INSPECTOR, OR AN
13 AUTHORIZED DEPUTY BOILER INSPECTOR UNLESS:

14 (I) THE COURT GIVES THE COMMISSIONER NOTICE AND AN
15 OPPORTUNITY FOR A HEARING; AND

16 (II) THE AGGRIEVED OWNER OR USER POSTS SECURITY OR MEETS
17 EACH CONDITION THAT THE COURT CONSIDERS PROPER.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 48, § 176A.

20 In subsection (e) of this section, the word "use" is substituted for the former
21 word "operate" to conform to terminology used throughout this section.

22 In subsection (f)(2) of this section, the word "may" is substituted for the
23 former word "shall" to clarify that the action may be brought in either of
24 the listed jurisdictions.

25 Defined terms: "Boiler" § 12-901

26 "Commissioner" § 12-901

27 "County" § 1-101

28 "Pressure vessel" § 12-901

29 12-916. CIVIL PENALTIES.

30 (A) IN GENERAL.

31 EXCEPT AS OTHERWISE PROVIDED IN § 12-915(E) OF THIS SUBTITLE, THE
32 COMMISSIONER MAY ASSESS A CIVIL PENALTY NOT EXCEEDING \$5,000 FOR EACH
33 VIOLATION AGAINST A PERSON WHO:

34 (1) VIOLATES THIS SUBTITLE;

35 (2) VIOLATES A REGULATION ADOPTED OR ORDER ISSUED UNDER THIS
36 SUBTITLE; OR

1 (3) OPERATES IN THE STATE A BOILER OR PRESSURE VESSEL, EXCEPT A
2 PRESSURE VESSEL COVERED BY AN OWNER-USER INSPECTION SERVICE AS
3 PROVIDED BY THIS SUBTITLE, WITHOUT A CERTIFICATE.

4 (B) FACTORS TO BE CONSIDERED.

5 IN ASSESSING THE APPROPRIATENESS OF A CIVIL PENALTY UNDER THIS
6 SECTION, THE COMMISSIONER SHALL GIVE DUE CONSIDERATION TO:

7 (1) THE NATURE OR GRAVITY OF THE VIOLATION;

8 (2) THE PERSON'S GOOD FAITH; AND

9 (3) THE PERSON'S HISTORY OF PREVIOUS VIOLATIONS.

10 (C) APPEAL; REGULATIONS.

11 (1) A PERSON MAY REQUEST A HEARING BEFORE THE COMMISSIONER
12 OR THE COMMISSIONER'S AUTHORIZED REPRESENTATIVE TO CONTEST A PROPOSED
13 PENALTY OR AN ALLEGED VIOLATION OF THIS SUBTITLE.

14 (2) THE COMMISSIONER SHALL ADOPT REGULATIONS AS REASONABLY
15 NECESSARY TO CARRY OUT THIS SUBSECTION.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 48, § 178A(a).

18 The introductory clause to subsection (a) of this section is added to clarify
19 that exceptions exist.

20 In subsection (a)(3) of this section, the former reference to a "valid"
21 certificate is deleted as surplusage.

22 In the introductory language of subsection (b) of this section, the specific
23 reference to "a civil penalty under this section" is substituted for the
24 general reference to "penalties under this subtitle" for clarity because this
25 provision only applies to this section, not to the entire subtitle.

26 In subsection (c)(2) of this section, the former requirement that regulations
27 be "consistent with the requirements of Title 10, Subtitle 1 of the State
28 Government Article" is deleted as unnecessary. The provisions in the State
29 Government Article govern the adoption of regulations by the Board
30 whether or not cross-referenced here.

31 Defined terms: "Boiler" § 12-901

32 "Commissioner" § 12-901

33 "Person" § 1-101

34 "Pressure vessel" § 12-901

1 12-917. PROHIBITED ACTS; PENALTY.

2 (A) PROHIBITED ACTS.

3 A PERSON MAY NOT:

4 (1) WILLFULLY AND PERSISTENTLY OPERATE IN THE STATE A BOILER
5 OR PRESSURE VESSEL, EXCEPT A PRESSURE VESSEL COVERED BY AN OWNER-USER
6 INSPECTION SERVICE AS PROVIDED BY THIS SUBTITLE, WITHOUT A CERTIFICATE;

7 (2) OPERATE IN THE STATE A BOILER OR PRESSURE VESSEL AT A
8 PRESSURE EXCEEDING THAT SPECIFIED ON THE CERTIFICATE; OR

9 (3) INTERFERE WITH OR IMPEDE THE OFFICIAL DUTIES OF THE
10 COMMISSIONER, AN AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER, OR A
11 MEMBER OF THE BOARD.

12 (B) PENALTY.

13 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
14 ON CONVICTION IS SUBJECT FOR EACH VIOLATION TO IMPRISONMENT NOT
15 EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 48, § 178A(b).

18 In subsection (a)(1) of this section, the former reference to a "valid"
19 certificate is deleted as surplusage.

20 In subsection (b) of this section, the reference to a person who violates this
21 section being guilty "of a misdemeanor" is added to state expressly that
22 which only was implied in the former law. In this State, any crime that was
23 not a felony at common law and has not been declared a felony by statute
24 is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490
25 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Dutton v. State*, 123 Md.
26 373, 378 (1914); and *Williams v. State*, Md. App. 342, 347 (1968).

27 Defined terms: "Board" § 12-901

28 "Boiler" § 12-901

29 "Certificate" § 12-901

30 "Commissioner" § 12-901

31 "Person" § 1-101

32 "Pressure vessel" § 12-901

33 12-918. SHORT TITLE.

34 THIS SUBTITLE MAY BE CITED AS THE BOILER AND PRESSURE VESSEL SAFETY
35 ACT.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from the first clause of the first sentence of former Art. 48, § 168(a).

3 Defined terms: "Boiler" § 12-901

4 "Pressure vessel" § 12-901

5 12-919. TERMINATION OF SUBTITLE.

6 THE PROVISIONS OF THIS SUBTITLE CREATING THE BOARD AND RELATING TO
7 THE REGULATION OF BOILERS OR PRESSURE VESSELS AND ANY REGULATIONS
8 ADOPTED UNDER THIS SUBTITLE ARE OF NO EFFECT AND MAY NOT BE ENFORCED
9 AFTER JULY 1, 2014.

10 REVISOR'S NOTE: This section formerly was Art. 48, § 180A.

11 The only changes are in style.

12 Defined terms: "Board" § 12-901

13 "Boiler" § 12-901

14 "Pressure vessel" § 12-901

15 GENERAL REVISOR'S NOTE TO SUBTITLE:

16 Former Art. 48, § 180, which provided for the severability of invalid sections of
17 this subtitle, is deleted as unnecessary in light of Art. 1, § 23.

18 SUBTITLE 10. MARYLAND BUILDING REHABILITATION CODE.

19 12-1001. DEFINITIONS.

20 (A) IN GENERAL.

21 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

22 REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-502(a).

23 No changes are made.

24 (B) ADDITION.

25 "ADDITION" MEANS AN INCREASE IN:

26 (1) BUILDING AREA;

27 (2) AGGREGATE FLOOR AREA;

28 (3) HEIGHT; OR

29 (4) NUMBER OF STORIES.

30 REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-502(b).

1 %In item (4) of this subsection, the former reference to the stories "of a
2 building or structure" is deleted as unnecessary in light of the definitions
3 of "existing building" and "rehabilitation project".

4 The only other changes are in style.

5 (C) CHANGE OF OCCUPANCY.

6 "CHANGE OF OCCUPANCY" MEANS A CHANGE IN THE PURPOSE OR LEVEL OF
7 ACTIVITY IN A BUILDING OR STRUCTURE THAT INVOLVES A CHANGE IN
8 APPLICATION OF THE LOCAL BUILDING CODE REQUIREMENTS.

9 REVISOR'S NOTE: This subsection is new language derived without
10 substantive change from former Art. 83B, § 6-502(c).

11 The reference to a "building or" structure is added for consistency with
12 subsection (f) of this section.

13 (D) CONSTRUCTION PERMIT APPLICATION.

14 "CONSTRUCTION PERMIT APPLICATION" MEANS AN APPLICATION FOR A
15 PERMIT OR OTHER GOVERNMENTAL APPROVAL FOR A REHABILITATION PROJECT.

16 REVISOR'S NOTE: This subsection is new language derived without
17 substantive change from former Art. 83B, § 6-502(d).

18 The former reference to an application "made to a local jurisdiction" is
19 deleted as unnecessary in light of the reference in subsection (f) of this
20 section to a construction permit application "made to a local jurisdiction,
21 the Maryland-National Capital Park and Planning Commission, or the
22 Washington Suburban Sanitary Commission", and the reference in §
23 12-1004(c) of this subtitle to a construction permit application "received by
24 a local jurisdiction, the Maryland-National Capital Park and Planning
25 Commission, or the Washington Suburban Sanitary Commission".

26 Defined term: "Rehabilitation project" § 12-1001

27 (E) DEPARTMENT.

28 "DEPARTMENT" MEANS THE DEPARTMENT OF HOUSING AND COMMUNITY
29 DEVELOPMENT.

30 REVISOR'S NOTE: This subsection is new language added to avoid repetition
31 of the full title of the "Department of Housing and Community
32 Development".

33 (F) EXISTING BUILDING.

34 "EXISTING BUILDING" MEANS A BUILDING OR STRUCTURE THAT WAS ERECTED
35 AND OCCUPIED, OR WAS ISSUED A CERTIFICATE OF OCCUPANCY, AT LEAST 1 YEAR
36 BEFORE A CONSTRUCTION PERMIT APPLICATION FOR THE BUILDING OR STRUCTURE

1 WAS MADE TO A LOCAL JURISDICTION, THE MARYLAND-NATIONAL CAPITAL PARK
2 AND PLANNING COMMISSION, OR THE WASHINGTON SUBURBAN SANITARY
3 COMMISSION.

4 REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-502(e).

5 The reference to a construction permit application made to "the
6 Maryland-National Capital Park and Planning Commission, or the
7 Washington Suburban Sanitary Commission" is added for consistency with
8 § 12-1004(c) of this subtitle.

9 The only other changes are in style.

10 Defined terms: "Construction permit application" § 12-1001

11 "Local jurisdiction" § 12-1001

12 (G) LOCAL JURISDICTION.

13 "LOCAL JURISDICTION" MEANS:

14 (1) A COUNTY; OR

15 (2) A MUNICIPAL CORPORATION IN THE STATE.

16 REVISOR'S NOTE: This subsection is new language derived without
17 substantive change from former Art. 83B, § 6-502(f).

18 In item (1) of this subsection, the former reference to "the City of
19 Baltimore" is deleted as unnecessary in light of § 1-101 of this article,
20 which defines "county" to include Baltimore City.

21 In item (2) of this subsection, the former reference to a municipal
22 corporation in the State "subject to the provisions of Article XI-E of the
23 Constitution" is deleted as unnecessary since all municipal corporations in
24 the State are subject to Article XI-E of the Maryland Constitution.

25 Defined term: "County" § 1-101

26 (H) MBRC.

27 "MBRC" MEANS THE MARYLAND BUILDING REHABILITATION CODE.

28 REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-502(g).

29 No changes are made.

30 (I) MODIFICATION.

31 "MODIFICATION" MEANS:

32 (1) THE RECONFIGURATION OF A SPACE;

- 1 (2) THE ADDITION OR ELIMINATION OF A DOOR OR WINDOW;
2 (3) THE RECONFIGURATION OR EXTENSION OF A SYSTEM; OR
3 (4) THE INSTALLATION OF ANY ADDITIONAL EQUIPMENT.

4 REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-502(h).

5 The only changes are in style.

6 (J) RECONSTRUCTION.

7 "RECONSTRUCTION" MEANS:

8 (1) THE RECONFIGURATION OF A SPACE THAT:

9 (I) AFFECTS AN EXIT OR ELEMENT OF THE EGRESS ACCESS THAT
10 IS SHARED BY MORE THAN A SINGLE OCCUPANT; OR

11 (II) PREVENTS OCCUPANCY OF THE WORK AREA BECAUSE THE
12 EXISTING MEANS OF EGRESS AND FIRE PROTECTION SYSTEMS, OR THEIR
13 EQUIVALENT, ARE NOT IN PLACE OR CONTINUOUSLY MAINTAINED; OR

14 (2) EXTENSIVE MODIFICATIONS.

15 REVISOR'S NOTE: This subsection is new language derived without
16 substantive change from former Art. 83B, § 6-502(i).

17 In item (1)(ii) of this subsection, the reference to the reconfiguration of a
18 space "that ... prevents occupancy of the work area" is substituted for the
19 former reference to the reconfiguration of a space "such that the work area
20 is not permitted to be occupied" for clarity and brevity.

21 Defined term: "Modification" § 12-1001

22 (K) REHABILITATION PROJECT.

23 "REHABILITATION PROJECT" MEANS CONSTRUCTION WORK UNDERTAKEN IN
24 AN EXISTING BUILDING THAT INCLUDES REPAIR, RENOVATION, MODIFICATION,
25 RECONSTRUCTION, CHANGE OF OCCUPANCY, OR ADDITION.

26 REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-502(j).

27 No changes are made.

28 Defined terms: "Addition" § 12-1001

29 "Change of occupancy" § 12-1001

30 "Existing building" § 12-1001

31 "Modification" § 12-1001

32 "Reconstruction" § 12-1001

33 "Renovation" § 12-1001

1 "Repair" § 12-1001

2 (L) RENOVATION.

3 (1) "RENOVATION" MEANS:

4 (I) THE CHANGE, STRENGTHENING, OR ADDITION OF LOAD
5 BEARING ELEMENTS; OR

6 (II) THE REFINISHING, REPLACEMENT, BRACING,
7 STRENGTHENING, UPGRADING, OR EXTENSIVE REPAIR OF EXISTING MATERIALS,
8 ELEMENTS, COMPONENTS, EQUIPMENT, OR FIXTURES.

9 (2) "RENOVATION" DOES NOT INCLUDE:

10 (I) RECONFIGURATION OF A SPACE; OR

11 (II) INTERIOR OR EXTERIOR PAINTING.

12 REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-502(k).

13 The only changes are in style.

14 Defined term: "Repair" § 12-1001

15 (M) REPAIR.

16 "REPAIR" MEANS THE PATCHING, RESTORATION, OR MINOR REPLACEMENT OF
17 MATERIALS, ELEMENTS, COMPONENTS, EQUIPMENT, OR FIXTURES TO MAINTAIN
18 THEM IN GOOD OR SOUND CONDITION.

19 REVISOR'S NOTE: This subsection is new language derived without
20 substantive change from former Art. 83B, § 6-502(l).

21 The phrase "to maintain them" is substituted for the former phrase "for the
22 purposes of maintaining these materials, elements, components,
23 equipment, or fixtures" for brevity.

24 12-1002. EFFECT OF SUBTITLE.

25 (A) ON OTHER LAWS.

26 THIS SUBTITLE IS EFFECTIVE NOTWITHSTANDING ANY OTHER PROVISIONS OF
27 LAW.

28 (B) ON AUTHORITY OF UNITS OF LOCAL GOVERNMENT.

29 THIS SUBTITLE DOES NOT SUPERSEDE THE PLANNING, ZONING, OR
30 SUBDIVISION AUTHORITY OF LOCAL JURISDICTIONS, THE MARYLAND-NATIONAL
31 CAPITAL PARK AND PLANNING COMMISSION, OR THE WASHINGTON SUBURBAN
32 SANITARY COMMISSION.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 83B, § 6-501.

3 Defined term: "Local jurisdiction" § 12-1001

4 12-1003. MARYLAND BUILDING REHABILITATION CODE ADVISORY COUNCIL.

5 (A) ESTABLISHED.

6 THERE IS A MARYLAND BUILDING REHABILITATION CODE ADVISORY COUNCIL.

7 (B) COMPOSITION.

8 THE COUNCIL CONSISTS OF THE FOLLOWING 27 MEMBERS:

9 (1) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT OR
10 THE SECRETARY'S DESIGNEE;

11 (2) THE SECRETARY OF LABOR, LICENSING, AND REGULATION OR THE
12 SECRETARY'S DESIGNEE;

13 (3) THE STATE FIRE MARSHAL OR THE FIRE MARSHAL'S DESIGNEE;

14 (4) THE STATE HISTORIC PRESERVATION OFFICER OR THE OFFICER'S
15 DESIGNEE;

16 (5) THE DIRECTOR OF THE GOVERNOR'S OFFICE FOR INDIVIDUALS WITH
17 DISABILITIES OR THE DIRECTOR'S DESIGNEE; AND

18 (6) THE FOLLOWING 22 MEMBERS APPOINTED BY THE GOVERNOR:

19 (I) ONE REPRESENTATIVE OF THE STATE FIRE PREVENTION
20 COMMISSION;

21 (II) FOUR REPRESENTATIVES OF THE BUILDING TRADES WHO ARE
22 DIRECTLY INVOLVED OR HAVE EXPERIENCE IN CODE SETTING OR CODE
23 ENFORCEMENT, INCLUDING PLUMBERS, ELECTRICIANS, BOILER OPERATORS, AND
24 HEATING, VENTILATION, AIR-CONDITIONING, AND REFRIGERATION CONTRACTORS;

25 (III) TWO ARCHITECTS PRACTICING IN THE STATE, A SIGNIFICANT
26 PORTION OF WHOSE PRACTICE INCLUDES REHABILITATION PROJECTS;

27 (IV) ONE PROFESSIONAL ENGINEER;

28 (V) TWO CONTRACTORS SPECIALIZING IN REHABILITATION
29 CONSTRUCTION;

30 (VI) TWO REPRESENTATIVES OF COUNTY GOVERNMENT;

31 (VII) TWO REPRESENTATIVES OF MUNICIPAL GOVERNMENT;

- 1 (VIII) TWO BUILDING CODE OFFICIALS SERVING LOCAL
2 GOVERNMENT;
- 3 (IX) ONE COMMERCIAL AND INDUSTRIAL BUILDING OWNER OR
4 DEVELOPER;
- 5 (X) ONE MULTIFAMILY BUILDING OWNER OR DEVELOPER;
- 6 (XI) TWO LOCAL FIRE OFFICIALS; AND
- 7 (XII) TWO MEMBERS OF THE PUBLIC.

8 (C) DIVERSITY.

9 THE COMPOSITION OF THE COUNCIL SHALL REFLECT THE RACIAL, GENDER,
10 AND GEOGRAPHIC DIVERSITY OF THE POPULATION OF THE STATE.

11 (D) TENURE; VACANCIES.

12 (1) THE TERM OF AN APPOINTED MEMBER IS 4 YEARS AND BEGINS ON
13 JULY 1.

14 (2) THE TERMS OF APPOINTED MEMBERS ARE STAGGERED AS
15 REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COUNCIL ON OCTOBER
16 1, 2003.

17 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
18 SUCCESSOR IS APPOINTED AND QUALIFIES.

19 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
20 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
21 QUALIFIES.

22 (5) AN APPOINTED MEMBER MAY SERVE NO MORE THAN TWO TERMS.

23 (E) CHAIRMAN.

24 THE GOVERNOR SHALL DESIGNATE A CHAIRMAN FROM AMONG THE COUNCIL
25 MEMBERS.

26 (F) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

27 A MEMBER OF THE COUNCIL:

28 (1) MAY NOT RECEIVE COMPENSATION FOR SERVICE ON THE COUNCIL;
29 BUT

30 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
31 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

32 (G) DIRECTOR.

1 (1) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT
2 SHALL APPOINT THE DIRECTOR OF THE COUNCIL.

3 (2) THE DIRECTOR IS A SPECIAL APPOINTMENT IN THE STATE
4 PERSONNEL MANAGEMENT SYSTEM.

5 (H) DUTIES.

6 THE COUNCIL SHALL:

7 (1) ADVISE THE DEPARTMENT ON THE DEVELOPMENT AND ADOPTION
8 OF AND AMENDMENTS TO THE MBRC;

9 (2) PROVIDE TECHNICAL ADVICE ON THE INTERPRETATION OF THE
10 MBRC TO PROPERTY OWNERS, DESIGN PROFESSIONALS, CONTRACTORS, AND CODE
11 OFFICIALS AND CODE APPEAL BOARDS OF LOCAL JURISDICTIONS, THE
12 MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, AND THE
13 WASHINGTON SUBURBAN SANITARY COMMISSION;

14 (3) DEVELOP THE MBRC TO THE EXTENT POSSIBLE TO AVOID
15 INCREASED COSTS TO LOCAL JURISDICTIONS RESULTING FROM IMPLEMENTATION
16 OF THE MBRC; AND

17 (4) TO THE EXTENT PROVIDED IN THE STATE BUDGET, PROVIDE
18 TRAINING ON THE MBRC FOR CODE OFFICIALS AND OTHER PUBLIC AND PRIVATE
19 CONSTRUCTION-RELATED PROFESSIONALS.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 83B, § 6-505.

22 In subsection (b)(6)(ii) of this section, the reference to "code" enforcement is
23 added for clarity.

24 In subsection (b)(6)(iii) of this section, the reference to a practice that
25 "includes" rehabilitation projects is substituted for the former reference to
26 a practice that "involves" rehabilitation projects for clarity.

27 In subsection (d)(1) of this section, the reference to an appointed member's
28 term "begin[ning] on July 1" is added to conform to the practice of the
29 Council.

30 In subsection (d)(2) of this section, the reference to terms being staggered
31 as required by the terms provided for Council members on "October 1,
32 2003" is substituted for the former obsolete reference to terms provided for
33 Council members on "July 1, 2000". This substitution is not intended to
34 alter the term of any member of the Council. *See* § ___ of Ch. ___, Acts of
35 2003. The terms of the appointed members serving on October 1, 2003, end
36 as follows: (1) 5 in 2004; (2) 6 in 2005; (3) 6 in 2006; and (4) 5 in 2007.

37 Subsection (f) of this section is revised in standard language used to

1 describe the compensation and reimbursement of members of a council.

2 Subsection (g)(1) of this section is revised in the active voice to clarify that
3 it is the duty of the Secretary of Housing and Community Development to
4 appoint the Director of the Council.

5 In subsection (g)(2) of this section, the reference to a special "appointment"
6 is substituted for the former reference to a special "appointee" for accuracy
7 and consistency with the terminology used in the State Personnel and
8 Pensions Article. *See, e.g.*, SP § 6-405.

9 In subsection (h)(1) of this section, the reference to "amendments" to the
10 MBRC is substituted for the former reference to "revisions" to the MBRC
11 for accuracy. *See, e.g.*, SG § 10-112(c).

12 In subsection (h)(2) of this section, the reference to providing technical
13 advice to code officials and code appeal boards of "the Maryland-National
14 Capital Park and Planning Commission, and the Washington Suburban
15 Sanitary Commission" is added for consistency with the apparent
16 legislative intent that those entities that are subject to the MBRC should
17 receive technical advice on its interpretation. This addition is consistent
18 with the purpose of the MBRC as stated in § 12-1004(c) of this subtitle.

19 Defined terms: "County" § 1-101

20 "Department" § 12-1001

21 "Local jurisdiction" § 12-1001

22 "MBRC" § 12-1001

23 "Rehabilitation project" § 12-1001

24 12-1004. MARYLAND BUILDING REHABILITATION CODE -- IN GENERAL.

25 (A) ADOPTION.

26 (1) THE DEPARTMENT, IN COOPERATION WITH THE MARYLAND
27 BUILDING REHABILITATION CODE ADVISORY COUNCIL, THE DEPARTMENT OF
28 LABOR, LICENSING, AND REGULATION, AND THE STATE FIRE MARSHAL, SHALL
29 ADOPT BY REGULATION THE MARYLAND BUILDING REHABILITATION CODE.

30 (2) THE MBRC SHALL BE MODELED ON THE NATIONALLY APPLICABLE
31 RECOMMENDED REHABILITATION PROVISIONS DEVELOPED BY THE UNITED STATES
32 DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE NATIONAL
33 ASSOCIATION OF HOME BUILDERS RESEARCH CENTER.

34 (B) PURPOSE.

35 THE PURPOSE OF THE MBRC IS TO ENCOURAGE AND FACILITATE THE
36 REHABILITATION OF EXISTING BUILDINGS BY REDUCING THE COST OF AND
37 CONSTRAINTS ON REHABILITATION THAT RESULT FROM EXISTING PROCEDURES
38 AND STANDARDS.

1 (C) APPLICABILITY.

2 EXCEPT AS OTHERWISE ALLOWED UNDER THIS SUBTITLE AND SUBTITLES 2, 3,
3 4, AND 5 OF THIS TITLE, AND NOTWITHSTANDING ARTICLES 23A, 25, 25A, 25B, 28, AND
4 29 OF THE CODE AND ANY BUILDING CODES, MECHANICAL CODES, PLUMBING
5 CODES, FIRE PREVENTION CODES, AND ELECTRICAL CODES ADOPTED UNDER THOSE
6 ARTICLES OF THE CODE, THE MBRC APPLIES TO ALL REHABILITATION PROJECTS
7 FOR WHICH A CONSTRUCTION PERMIT APPLICATION IS RECEIVED BY A LOCAL
8 JURISDICTION, THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING
9 COMMISSION, OR THE WASHINGTON SUBURBAN SANITARY COMMISSION AFTER
10 ADOPTION OF THE MBRC.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 83B, § 6-503(a), (b), and (d).

13 In subsection (c) of this section, the reference to "this subtitle and Subtitles
14 2, 3, 4, and 5 of this title" is substituted for the former reference to "this
15 title" to reflect the organization of this revised article.

16 Former Art. 83B, § 6-503(c)(1), which required the Department of Housing
17 and Community Development to submit proposed regulations adopting the
18 Maryland Building Rehabilitation Code to the Joint Committee on
19 Administrative, Executive, and Legislative Review on or before December
20 31, 2000, and to adopt the MBRC as soon as possible thereafter, is deleted
21 as obsolete. The proposed regulations were published in the *Maryland*
22 *Register* on February 9, 2001, and adopted by the Department on May 4,
23 2001, effective June 1, 2001. For the text of the final regulations, *see*
24 COMAR 05.16.

25 Defined terms: "Construction permit application" § 12-1001

26 "Department" § 12-1001

27 "Existing building" § 12-1001

28 "Local jurisdiction" § 12-1001

29 "MBRC" § 12-1001

30 "Rehabilitation project" § 12-1001

31 12-1005. SAME -- CONTENTS.

32 (A) MINIMUM REQUIREMENTS.

33 AT A MINIMUM, THE MBRC SHALL:

34 (1) MAINTAIN A LEVEL OF SAFETY CONSISTENT WITH EXISTING CODES;

35 (2) PROVIDE FOR MULTIPLE CATEGORIES OF WORK WITH MULTIPLE
36 COMPLIANCE STANDARDS;

37 (3) BE ENFORCEABLE BY LOCAL OFFICIALS USING EXISTING
38 ENFORCEMENT PROCEDURES;

1 (4) APPLY TO THE REPAIR, RENOVATION, MODIFICATION, AND
2 RECONSTRUCTION OF, A CHANGE OF OCCUPANCY IN, AND AN ADDITION TO, AN
3 EXISTING BUILDING;

4 (5) PROVIDE AN EXPEDITED REVIEW PROCESS FOR PROPOSED
5 AMENDMENTS TO THE MBRC SUBMITTED BY A LOCAL GOVERNMENT OR AN
6 ORGANIZATION THAT REPRESENTS LOCAL GOVERNMENTS; AND

7 (6) PROVIDE AN OPPORTUNITY FOR A PERSON PROPOSING A COMPLEX
8 PROJECT THAT INVOLVES MULTIPLE CODES TO MEET, BEFORE SUBMITTING A
9 CONSTRUCTION PERMIT APPLICATION, WITH THE LOCAL OFFICIALS, OR THEIR
10 DESIGNEES, RESPONSIBLE FOR PERMIT APPROVAL AND ENFORCEMENT OF
11 CONSTRUCTION-RELATED LAWS THAT APPLY TO THE PROJECT.

12 (B) MEETING ON COMPLEX PROJECTS.

13 TO THE EXTENT POSSIBLE, THE MEETING PROVIDED FOR UNDER SUBSECTION
14 (A)(6) OF THIS SECTION SHALL INCLUDE THE OFFICIALS RESPONSIBLE FOR PERMIT
15 APPROVAL AND ENFORCEMENT IN ANY OF THE FOLLOWING AREAS THAT APPLY TO
16 THE COMPLEX PROJECT:

17 (1) BUILDING CODE;

18 (2) MECHANICAL CODE;

19 (3) PLUMBING CODE;

20 (4) ELECTRICAL CODE;

21 (5) FIRE PREVENTION CODE;

22 (6) BOILER SAFETY CODE;

23 (7) ENERGY CODE;

24 (8) ELEVATOR CODE; AND

25 (9) LOCAL HISTORIC PRESERVATION ORDINANCES.

26 (C) PURPOSE OF MEETING.

27 THE PURPOSE OF THE MEETING PROVIDED FOR UNDER SUBSECTION (A)(6) OF
28 THIS SECTION IS TO ANTICIPATE AND EXPEDITE THE RESOLUTION OF PROBLEMS
29 THAT A COMPLEX PROJECT MAY HAVE IN COMPLYING WITH THE MBRC AND ANY
30 OTHER APPLICABLE LAWS.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 83B, § 6-504.

33 In subsection (a)(4) of this section, the reference to the repair, renovation,
34 modification, and reconstruction "of", and a change of occupancy "in", an

1 existing building is added for clarity.

2 In subsections (a)(6), the introductory language of (b), and (c) of this
3 section, the reference to a "complex project" is substituted for the former
4 reference to the "complex rehabilitation project" to avoid confusion with
5 the defined term "rehabilitation project".

6 In subsections (a)(6) and (c) of this section, the former references to laws
7 "and regulations" are deleted because the broad reference to a "law"
8 includes a "regulation" adopted under the authority of a law. *See, e.g.,*
9 *Maryland Port Administration v. Brawner Contracting Co.*, 303 Md. 44, 60
10 (1985).

11 In subsection (a)(6) of this section, the reference to enforcement "of"
12 construction-related laws is substituted for the former reference to
13 enforcement "in" construction-related laws for clarity and accuracy.

14 Also in subsection (a)(6) of this section, the former requirement that the
15 MBRC "[c]ontain provisions that" provide a certain opportunity is deleted
16 as surplusage.

17 In subsection (c) of this section, the reference to complying with the MBRC
18 and "any other" applicable laws is substituted for the former reference to
19 complying with the MBRC and "the" applicable laws to reflect that there
20 may not be applicable laws in addition to the MBRC.

21 Defined terms: "Addition" § 12-1001

22 "Change of occupancy" § 12-1001

23 "Construction permit application" § 12-1001

24 "Existing building" § 12-1001

25 "MBRC" § 12-1001

26 "Modification" § 12-1001

27 "Person" § 1-101

28 "Reconstruction" § 12-1001

29 "Rehabilitation project" § 12-1001

30 "Renovation" § 12-1001

31 "Repair" § 12-1001

32 12-1006. SAME -- CONFORMING CHANGES TO OTHER CODES AND STANDARDS.

33 WITHIN 90 DAYS AFTER THE ADOPTION OF THE MBRC AND ANY SUBSEQUENT
34 AMENDMENTS TO THE MBRC:

35 (1) THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, THE
36 STATE BOARD OF HEATING, VENTILATION, AIR-CONDITIONING, AND REFRIGERATION
37 CONTRACTORS, THE STATE BOARD OF PLUMBING, THE COMMISSIONER OF LABOR
38 AND INDUSTRY, AND THE BOARD OF BOILER RULES SHALL SUBMIT PROPOSED
39 AMENDMENTS TO THEIR REGULATIONS TO MAKE THE MECHANICAL CODE, THE
40 STATE PLUMBING CODE, THE BOILER SAFETY CODE, AND THE ELEVATOR CODE
41 CONSISTENT WITH THE MBRC;

1 (2) THE DEPARTMENT OF STATE POLICE AND THE STATE FIRE
2 PREVENTION COMMISSION SHALL SUBMIT PROPOSED AMENDMENTS TO THEIR
3 REGULATIONS TO MAKE THE STATE FIRE PREVENTION CODE CONSISTENT WITH THE
4 MBRC; AND

5 (3) THE DEPARTMENT SHALL SUBMIT PROPOSED AMENDMENTS TO ITS
6 REGULATIONS TO MAKE THE MARYLAND BUILDING PERFORMANCE STANDARDS,
7 THE SAFETY GLAZING CODE, THE ENERGY CODE, AND THE MARYLAND
8 ACCESSIBILITY CODE CONSISTENT WITH THE MBRC.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 83B, § 6-503(e).

11 In the introductory language of this section, the reference to any
12 "amendments" to the MBRC is substituted for the former reference to any
13 "changes" to the MBRC for accuracy. *See, e.g.,* SG § 10-112(c).
14 Correspondingly, in items (1), (2), and (3) of this section, the references to
15 "amendments" to regulations are substituted for the former references to
16 "changes" to regulations.

17 In item (1) of this section, the reference to "the Commissioner of Labor and
18 Industry" is added for consistency with § 12-905 of this title, which
19 requires the Board of Boiler Rules and the Commissioner to submit
20 proposed amendments to make the Boiler Safety Code consistent with the
21 MBRC, and § 12-805(b)(3) of this title, which requires the Commissioner
22 to adopt amendments to the Elevator Code that are consistent with the
23 MBRC.

24 Also in item (1) of this section, the reference to the "State" Plumbing Code
25 is added to reflect the correct name of the Code. *See* COMAR 09.20.01.
26 Similarly, in item (3) of this section, the reference to the "Maryland"
27 Accessibility Code is added. *See* COMAR 05.02.02.01.

28 Defined terms: "Department" § 12-1001

29 "MBRC" § 12-1001

30 12-1007. SAME -- AMENDMENTS.

31 (A) BY DEPARTMENT.

32 AT LEAST EVERY 3 YEARS, THE DEPARTMENT, IN COOPERATION WITH THE
33 MARYLAND BUILDING REHABILITATION CODE ADVISORY COUNCIL, SHALL REVIEW
34 THE MBRC AND ADOPT ANY NECESSARY OR DESIRABLE AMENDMENTS.

35 (B) BY LOCAL JURISDICTIONS -- APPLICABILITY OF AMENDMENTS.

36 (1) A LOCAL JURISDICTION MAY ADOPT AMENDMENTS TO THE MBRC
37 THAT APPLY ONLY TO THE LOCAL JURISDICTION.

1 (2) A MUNICIPAL CORPORATION WHOSE AUTHORITY TO ADOPT OR
 2 AMEND A BUILDING CODE IS LIMITED, BY LAW, BY THE AUTHORITY OF THE COUNTY
 3 IN WHICH IT IS LOCATED, IS NOT SUBJECT TO AN AMENDMENT TO THE MBRC
 4 ADOPTED BY THE COUNTY UNLESS THE MUNICIPAL CORPORATION ALSO ADOPTS
 5 THE AMENDMENT.

6 (C) SAME -- COPY OF AMENDMENTS.

7 TO KEEP CURRENT THE CENTRAL DATABASE ESTABLISHED UNDER § 12-506 OF
 8 THIS TITLE, A LOCAL JURISDICTION THAT AMENDS THE MBRC SHALL PROVIDE A
 9 COPY OF THE AMENDMENT TO THE DEPARTMENT:

10 (1) AT LEAST 15 DAYS BEFORE THE EFFECTIVE DATE OF THE
 11 AMENDMENT; OR

12 (2) WITHIN 5 DAYS AFTER THE ADOPTION OF AN EMERGENCY LOCAL
 13 AMENDMENT.

14 (D) SAME -- EFFECT ON ELIGIBILITY FOR FUNDING.

15 A LOCAL JURISDICTION THAT AMENDS THE MBRC IS NOT ELIGIBLE FOR ANY
 16 FUNDING APPROPRIATED ABOVE THE APPROPRIATION IN FISCAL YEAR 2000 FOR:

17 (1) CIRCUIT RIDER MBRC INSPECTORS PROVIDED UNDER THE CIRCUIT
 18 RIDER PROGRAM IN THE DEPARTMENT;

19 (2) TRAINING FOR THE LOCAL JURISDICTION'S CODE ENFORCEMENT
 20 OFFICIALS, AS PROVIDED FOR IN § 12-1003(H)(4) OF THIS SUBTITLE;

21 (3) A SMART GROWTH MORTGAGE PROGRAM, TO BE ESTABLISHED BY
 22 THE DEPARTMENT UNDER TITLE 2, SUBTITLES 2 AND 6 OF ARTICLE 83B OF THE CODE;

23 (4) THE NEIGHBORHOOD CONSERVATION PROGRAM IN THE
 24 DEPARTMENT OF TRANSPORTATION; AND

25 (5) THE RURAL LEGACY PROGRAM ESTABLISHED UNDER TITLE 5,
 26 SUBTITLE 9A OF THE NATURAL RESOURCES ARTICLE.

27 (E) SAME -- EFFECT ON ELIGIBILITY FOR PRIORITY UNDER TRANSPORTATION
 28 ENHANCEMENTS PROGRAMS.

29 A LOCAL JURISDICTION THAT AMENDS THE MBRC IS NOT ELIGIBLE FOR A
 30 PRIORITY UNDER THE DEPARTMENT OF TRANSPORTATION'S TRANSPORTATION
 31 ENHANCEMENTS PROGRAMS.

32 REVISOR'S NOTE: This section is new language derived without substantive
 33 change from former Art. 83B, § 6-503(f) and (c)(2).

34 In subsection (a) of this section, the reference to adopting "amendments" to
 35 the MBRC is substituted for the former reference to adopting "revisions" to
 36 the MBRC for accuracy. *See, e.g.,* SG § 10-112(c).

1 %In subsection (b)(1) of this section, the former reference to a local
 2 jurisdiction adopting "local" amendments to the MBRC is deleted as
 3 unnecessary in light of the reference to the amendments applying "only to
 4 the local jurisdiction".

5 Defined terms: "County" § 1-101

6 "Department" § 12-1001

7 "Local jurisdiction" § 12-1001

8 "MBRC" § 12-1001

9 GENERAL REVISOR'S NOTE TO TITLE:

10 Former Art. 48, §§ 111 through 115, which were enacted in 1894 and which
 11 provided for the inspection by police officers of scaffolding used in the construction,
 12 repairing, or painting of buildings, are deleted as obsolete. Inspection of scaffolding is
 13 covered under regulations adopted under the Maryland Occupational Safety and
 14 Health Act.

15 TITLE 13. MILITIA.

16 SUBTITLE 1. DEFINITIONS.

17 13-101. DEFINITIONS.

18 (A) IN GENERAL.

19 IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

20 REVISOR'S NOTE: This subsection is new language used as the standard
 21 introductory language to a definition section.

22 (B) DEPARTMENT.

23 "DEPARTMENT" MEANS THE MILITARY DEPARTMENT.

24 REVISOR'S NOTE: This subsection is new language added to avoid repetition
 25 of the full title "Military Department".

26 (C) MARYLAND DEFENSE FORCE.

27 "MARYLAND DEFENSE FORCE" MEANS THE MILITARY FORCE ESTABLISHED
 28 UNDER SUBTITLE 5 OF THIS TITLE.

29 REVISOR'S NOTE: This subsection is new language derived without
 30 substantive change from the third sentence of former Art. 65, § 62, as it
 31 applied to the name of the Maryland Defense Force. Although the reference
 32 in former Art. 65, § 62 did not apply specifically to the entire article,
 33 because the other references in this title are consistent with this
 34 definition, no substantive change results.

1 (D) NATIONAL GUARD.

2 "NATIONAL GUARD" MEANS THE MARYLAND ARMY NATIONAL GUARD AND
3 MARYLAND AIR NATIONAL GUARD.

4 REVISOR'S NOTE: This subsection is new language derived without
5 substantive change from former Art. 65, § 15(a).

6 The references to the "Maryland" Army National Guard and the
7 "Maryland" Air National Guard are added for clarity.

8 (E) STATE ACTIVE DUTY.

9 (1) "STATE ACTIVE DUTY" MEANS MILITARY DUTY PERFORMED IN
10 SERVICE OF THE STATE BY A UNIT OR MEMBER OF THE MILITIA UNDER ORDERS
11 ISSUED BY THE GOVERNOR UNDER ARTICLE II, § 8 OF THE MARYLAND CONSTITUTION
12 OR § 13-702 OF THIS TITLE.

13 (2) UNLESS THE GOVERNOR SPECIFICALLY PROVIDES OTHERWISE,
14 "STATE ACTIVE DUTY" DOES NOT INCLUDE DRILL PERIODS, PREPARATION FOR DRILL
15 PERIODS, ANNUAL TRAINING, OR OTHER EQUIVALENT TRAINING OR DUTY
16 CONDUCTED UNDER ORDERS ISSUED UNDER TITLE 10 OR TITLE 32 OF THE UNITED
17 STATES CODE.

18 REVISOR'S NOTE: This subsection is new language derived without
19 substantive change from the third sentence of former Art. 65, § 8(a).

20 Paragraph (1) of this subsection is new language added to provide
21 uniformity throughout this title for the former terms "active State duty",
22 active State service", "active service of the State", and other similar
23 phrases.

24 In paragraph (2) of this subsection, the reference to duty "under orders
25 issued under Title 10 or Title 32 of the United States Code" is substituted
26 for the former reference to the duty "while in its capacity as National
27 Guard of the United States" to clarify the circumstances under which the
28 militia is in active duty under federal law.

29 SUBTITLE 2. GENERAL PROVISIONS.

30 13-201. APPLICATION OF TITLE; AMENDMENT OR REPEAL OF TITLE.

31 (A) APPLICATION OF TITLE TO UNIFORMED VOLUNTEER COMPANIES.

32 THIS TITLE APPLIES TO ALL UNIFORMED VOLUNTEER COMPANIES.

33 (B) AMENDMENT OR REPEAL OF TITLE.

34 A PROVISION OF THIS TITLE MAY NOT BE REPEALED OR AMENDED BY ANY
35 STATUTE PASSED BY THE GENERAL ASSEMBLY UNLESS THE STATUTE EXPLICITLY:

1 (1) REFERS TO THIS TITLE AS THE MILITIA LAW, OR BY ITS OTHER
2 TITLES, AS PART OF THE GENERAL LAWS OF THE STATE; AND

3 (2) REPEALS OR AMENDS THE REFERENCED PROVISION.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 23, § 331 and former Art. 65, § 59.

6 In subsection (a) of this section, the phrase "this title" is substituted for the
7 former phrase "laws for the government of the militia of this State"
8 because the laws governing the State militia are now codified under this
9 title.

10 In the introductory language of subsection (b) of this section, the former
11 word "altered" is deleted as included in the word "amended". Similarly, in
12 subsection (b)(2) of this section, the former word "alters" is deleted as
13 included in the word "amends".

14 Also in the introductory language of subsection (b) of this section, the
15 former reference to "any part thereof" is deleted as redundant with the
16 word "provision".

17 13-202. MEMBERSHIP; EXEMPTIONS; WAIVER OF EXEMPTIONS.

18 (A) MEMBERSHIP.

19 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE MILITIA
20 CONSISTS OF ABLE-BODIED INDIVIDUALS WHO ARE:

21 (1) CITIZENS OF THE STATE; OR

22 (2) OF FOREIGN BIRTH AND WHO:

23 (I) ARE RESIDENTS OF THE STATE; AND

24 (II) HAVE DECLARED THEIR INTENTION TO BECOME CITIZENS OF
25 THE STATE.

26 (B) EXEMPTIONS.

27 SUBJECT TO SUBSECTION (C) OF THIS SECTION, AN INDIVIDUAL IS EXEMPT
28 FROM SUBSECTION (A) OF THIS SECTION IF THE INDIVIDUAL:

29 (1) IS EXEMPTED BY THE LAWS OF THE UNITED STATES;

30 (2) IS EXEMPTED BY THE LAWS OF THE STATE;

31 (3) IS A MEMBER OF A REGULARLY ORGANIZED FIRE OR POLICE
32 DEPARTMENT IN A COUNTY, CITY, VILLAGE, OR TOWN;

33 (4) IS A JUDGE OR CLERK OF A COURT OF RECORD;

- 1 (5) IS A REGISTER OF WILLS AND DEEDS;
 2 (6) IS A SHERIFF;
 3 (7) IS A MEMBER OF THE CLERGY;
 4 (8) IS A PRACTICING PHYSICIAN;
 5 (9) IS A SUPERINTENDENT, OFFICER, OR ASSISTANT OF A HOSPITAL OR
 6 CORRECTIONAL FACILITY;
 7 (10) HAS BEEN JUDGED MENTALLY INCOMPETENT;
 8 (11) IS ADDICTED TO NARCOTIC DRUGS; OR
 9 (12) HAS BEEN CONVICTED OF AN INFAMOUS CRIME.
 10 (C) WAIVER OF EXEMPTIONS.

11 AN INDIVIDUAL EXEMPTED UNDER SUBSECTION (B)(3) THROUGH (12) OF THIS
 12 SECTION SHALL BE AVAILABLE FOR MILITARY DUTY IN CASE OF WAR,
 13 INSURRECTION, OR INVASION, OR WHEN THE DANGER OF WAR, INSURRECTION, OR
 14 INVASION IS IMMINENT.

15 REVISOR'S NOTE: This section is new language derived without substantive
 16 change from the first and second sentences of former Art. 65, § 1.

17 Throughout this section, the references to an "individual" are substituted
 18 for the former references to a "person". *See* General Revisor's Note to title.

19 In the introductory language of subsection (a) of this section, the word
 20 "consists" is substituted for the former phrase "shall constitute" for brevity.

21 In subsection (b)(9) of this section, the term "correctional facility" is
 22 substituted for the former reference to "prisons and jails" to conform to the
 23 terminology used elsewhere in the Code. *See, e.g.*, CS § 1-101 and CP §
 24 1-101.

25 In subsection (b)(10) of this section, the phrase "judged mentally
 26 incompetent" is substituted for the former phrase "adjudicated
 27 incompetents" for clarity.

28 The third sentence of former Art. 65, § 1, which provided that "[w]henever
 29 the masculine gender is used in this article, it also includes the feminine
 30 gender, unless otherwise provided by law" is deleted in light of Art. 1, § 7
 31 which states that "[u]nless the General Assembly specifically provides
 32 otherwise in a particular statute, all words in this Code importing one
 33 gender include and apply to the other gender as well".

34 Defined term: "County" § 1-101

1 13-203. ORGANIZED AND UNORGANIZED MILITIA.

2 (A) CLASSES.

3 THERE ARE TWO CLASSES OF STATE MILITIA:

4 (1) THE ORGANIZED MILITIA; AND

5 (2) THE UNORGANIZED MILITIA.

6 (B) ORGANIZED MILITIA.

7 THE ORGANIZED MILITIA OF THE STATE CONSISTS OF:

8 (1) THE NATIONAL GUARD;

9 (2) THE INACTIVE NATIONAL GUARD; AND

10 (3) THE MARYLAND DEFENSE FORCE.

11 (C) UNORGANIZED MILITIA.

12 THE UNORGANIZED MILITIA CONSISTS OF THOSE INDIVIDUALS DESCRIBED
13 UNDER § 13-202 OF THIS SUBTITLE BUT WHO ARE NOT REGULARLY ENLISTED OR
14 COMMISSIONED IN THE ORGANIZED MILITIA.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 65, § 5(a), (c), and the first sentence of (b).

17 In subsection (b) of this section, the defined term "National Guard" is
18 substituted for the former terms "Maryland Army National Guard" and
19 "Maryland Air National Guard" for brevity.

20 In subsection (c) of this section, the phrase "individuals described under §
21 13-202 of this subtitle" is substituted for the former phrase "those liable to
22 serve" for clarity.

23 Defined terms: "Maryland Defense Force" § 13-101

24 "National Guard" § 13-101

25 13-204. APPROPRIATIONS; EXPENDITURES.

26 (A) GENERAL APPROPRIATIONS.

27 THE GENERAL APPROPRIATIONS FOR THE MILITIA SHALL BE EXCLUSIVELY
28 APPLIED TO THE NECESSARY AND CONTINGENT EXPENSES OF THE OFFICE OF THE
29 ADJUTANT GENERAL AND TO THE EQUIPMENT, MAINTENANCE, AND GENERAL
30 EFFICIENCY OF THE ORGANIZED MILITIA.

31 (B) APPROVAL OF EXPENSES BY ADJUTANT GENERAL.

1 (1) EXCEPT AS PROVIDED IN THIS TITLE, UNLESS AUTHORIZED BY THE
2 ADJUTANT GENERAL, A PERSON MAY NOT MAKE A PURCHASE, INCUR A DEBT OR
3 EXPENSE, OR EXPEND MONEY FOR THE MILITIA.

4 (2) (I) THE ADJUTANT GENERAL SHALL ADOPT RULES FOR THE
5 RECEIPT AND EXPENDITURE OF ALL MONEY THAT COMES UNDER THE CONTROL OF
6 THE ADJUTANT GENERAL.

7 (II) THE ADJUTANT GENERAL MAY REQUIRE BOND FROM PERSONS
8 INVOLVED IN THE RECEIPT AND EXPENDITURE OF MONEY THAT THE ADJUTANT
9 GENERAL DESIGNATES.

10 (C) EXCEPTION FOR STATE ACTIVE DUTY.

11 (1) THE COMMANDING OFFICER OF AN ORGANIZATION OR
12 DETACHMENT OF THE ORGANIZED MILITIA THAT IS ON STATE ACTIVE DUTY MAY
13 PURCHASE NECESSITIES THAT ARE ABSOLUTELY REQUIRED FOR THE IMMEDIATE
14 USE AND CARE OF THE OFFICER'S COMMAND.

15 (2) IF A COMMANDING OFFICER ON STATE ACTIVE DUTY MAKES A
16 PURCHASE UNDER THIS SUBSECTION, THE COMMANDING OFFICER SHALL:

17 (I) TAKE A RECEIPT OF THE PURCHASE IN TRIPPLICATE; AND

18 (II) PROMPTLY SUBMIT A REPORT OF THE PURCHASE THROUGH
19 REGULAR CHANNELS TO THE DEPARTMENT'S FINANCE OFFICER.

20 (3) THE REPORT SHALL CONTAIN:

21 (I) A LIST OF THE ARTICLES PURCHASED;

22 (II) THE PRICE OF THE ARTICLES; AND

23 (III) THE RECEIPTS.

24 (D) AUDIT AND PAYMENT OF BILLS.

25 (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE
26 ADJUTANT GENERAL SHALL AUDIT AND PAY ALL BILLS AND MILITARY ACCOUNTS
27 PAYABLE BY THE STATE.

28 (2) THE ADJUTANT GENERAL SHALL FOLLOW AS NEARLY AS POSSIBLE
29 THE FINANCIAL OPERATING PROCEDURES ESTABLISHED BY THE UNITED STATES
30 DEPARTMENT OF DEFENSE.

31 (3) THE COMPTROLLER SHALL BE THE AUDITOR OF ALL ACCOUNTS FOR
32 PROPERTY PURCHASED BY THE ADJUTANT GENERAL.

33 (4) THE TREASURER SHALL PAY AN AUDITED MILITARY ACCOUNT FROM
34 AN APPROPRIATION MADE BY THE GENERAL ASSEMBLY, ON THE WARRANT OF THE
35 ADJUTANT GENERAL, UNDER THE DIRECTION OF THE GOVERNOR.

- 1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 65, §§ 12 and 14.
- 3 In subsection (a) of this section, the former reference to the organized
4 militia that is "organized and enlisted as provided for in this article" is
5 deleted as surplusage.
- 6 Also in subsection (a) of this section, the former reference to the organized
7 militia "of this State" is deleted as surplusage.
- 8 In subsection (b)(1) of this section, the reference to a "person" is added for
9 clarity.
- 10 Also in subsection (b)(1) of this section, the phrase "for the militia" is added
11 for clarity.
- 12 Also in subsection (b)(1) of this section, the former reference to an "officer"
13 of the militia is deleted as included in the comprehensive reference to a
14 "person".
- 15 Also in subsection (b)(1) of this section, the former reference to an expense
16 "to be paid by the State" is deleted as implicit in the reference to an
17 "expense ... for the militia".
- 18 In subsection (b)(2)(i) of this section, the former reference to "regulations"
19 is deleted as included in the reference to "rules". It is further noted that
20 these regulations are not subject to the Administrative Procedure Act.
- 21 In subsection (b)(2)(ii) of this section, the phrase "involved in the receipt
22 and expenditure of money" is added for clarity.
- 23 In subsection (c) of this section, the phrase "of the organized militia", which
24 formerly modified an "organization or detachment", is deleted as
25 redundant because "State active duty" as defined in § 13-101 of this title
26 applies only to the organized militia.
- 27 In subsection (d)(2) of this section, the phrase "financial operating
28 procedures established by the United States Department of Defense" is
29 substituted for the former phrase "general customs and methods of the
30 finance office of the Army of the United States" to reflect the current
31 terminology and practice of the Military Department.
- 32 In subsection (d)(3) and (4) of this section, the former references to the
33 Comptroller and Treasurer "of the State", which modified references to the
34 "Comptroller" and the "Treasurer", are deleted as surplusage.
- 35 In subsection (d)(4) of this section, the former reference to a "proper
36 appropriation" is deleted as surplusage.

1 Defined terms: "Department" § 13-101

2 "Person" § 1-101

3 "State active duty" § 13-101

4 13-205. WHO MAY ENLIST.

5 SUBJECT TO THE PROVISIONS OF THIS TITLE AND THE REGULATIONS
6 GOVERNING THE ARMED FORCES OF THE UNITED STATES, AN INDIVIDUAL MAY BE
7 ENLISTED IN THE ORGANIZED MILITIA IF THE INDIVIDUAL:

8 (1) IS A CITIZEN OF THE STATE OR HAS DECLARED AN INTENTION TO
9 BECOME A CITIZEN OF THE STATE;

10 (2) IS ABLE-BODIED; AND

11 (3) HAS GOOD CHARACTER AND TEMPERATE HABITS.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 65, § 24.

14 In the introductory language of this section, the former reference to the
15 militia "of this State" is deleted as surplusage.

16 Also in the introductory language of this section, the references to an
17 "individual" are substituted for the former references to a "person". *See*
18 General Revisor's Note to title.

19 13-206. OATH FOR ENLISTING IN ORGANIZED MILITIA.

20 (A) OATH.

21 AN INDIVIDUAL ENLISTING IN THE ORGANIZED MILITIA SHALL TAKE AND
22 SUBSCRIBE TO THE FOLLOWING OATH OF ENLISTMENT:

23 "I DO HEREBY ACKNOWLEDGE TO HAVE VOLUNTARILY ENLISTED THIS DAY
24 OF, 20, IN THE (NATIONAL GUARD) (MARYLAND DEFENSE FORCE) OF THE
25 STATE OF MARYLAND FOR THE PERIOD OF YEAR(S), UNDER THE CONDITIONS
26 PRESCRIBED BY LAW, UNLESS SOONER DISCHARGED BY PROPER AUTHORITY. I,
27, DO SOLEMNLY SWEAR (OR AFFIRM) THAT I WILL BEAR TRUE FAITH AND
28 ALLEGIANCE TO THE UNITED STATES OF AMERICA AND TO THE STATE OF
29 MARYLAND; THAT I WILL SERVE THEM HONESTLY AND FAITHFULLY AGAINST ALL
30 THEIR ENEMIES WHOMSOEVER; AND THAT I WILL OBEY THE ORDERS OF THE
31 PRESIDENT OF THE UNITED STATES AND THE GOVERNOR OF MARYLAND AND THE
32 ORDERS OF THE OFFICERS APPOINTED OVER ME, ACCORDING TO LAW AND
33 REGULATIONS."

34 (B) AUTHORITY TO ADMINISTER OATH.

35 ANY OFFICER OF THE ORGANIZED MILITIA MAY ADMINISTER THE OATH OF
36 ENLISTMENT.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 65, § 25.

3 In subsection (a) of this section, the reference to an "individual" is
4 substituted for the former reference to "[m]en". *See* General Revisor's Note
5 to title.

6 Also in subsection (a) of this section, the former parenthetical "(Reserve
7 Militia)" is deleted as obsolete. *See* Ch. 638, Acts of 1999.

8 In subsection (b) of this section, the former reference to the organized
9 militia "of this State" is deleted as surplusage.

10 Defined terms: "Maryland Defense Force" § 13-101

11 "National Guard" § 13-101

12 13-207. RESPONSIBILITIES OF OFFICERS AND ENLISTED INDIVIDUALS;
13 INSPECTIONS.

14 (A) ORGANIZATION COMMANDERS.

15 AN ORGANIZATION COMMANDER:

16 (1) MAY REQUIRE THOSE UNDER THE COMMAND OF THE ORGANIZATION
17 COMMANDER TO PERFORM ANY MILITARY DUTY; AND

18 (2) IS RESPONSIBLE TO THE GOVERNOR FOR THE GENERAL EFFICIENCY
19 OF THE UNITS OF THE ORGANIZED MILITIA UNDER THE COMMAND OF THE
20 ORGANIZATION COMMANDER.

21 (B) COMMANDING OFFICERS.

22 A COMMANDING OFFICER OF A UNIT IS RESPONSIBLE TO THE OFFICER'S
23 IMMEDIATE COMMANDER FOR THE EQUIPMENT, DRILL, INSTRUCTION, MOVEMENTS,
24 AND EFFICIENCY OF THOSE UNDER THE OFFICER'S COMMAND.

25 (C) OFFICERS AND ENLISTED INDIVIDUALS.

26 EACH OFFICER OR ENLISTED INDIVIDUAL IS RESPONSIBLE TO THE
27 INDIVIDUAL'S IMMEDIATE COMMANDING OFFICER FOR PROMPT AND UNHESITATING
28 OBEDIENCE, PROPER DRILL, AND THE PRESERVATION AND PROPER USE OF THE
29 PROPERTY OF THE ORGANIZATION, THE STATE, OR THE UNITED STATES THAT IS IN
30 THE INDIVIDUAL'S POSSESSION.

31 (D) INSPECTIONS.

32 A UNIT OF THE ORGANIZED MILITIA SHALL BE INSPECTED:

33 (1) BY AN OFFICER DETAILED FOR INSPECTION DUTY, WHENEVER THE
34 GOVERNOR CONSIDERS IT ADVISABLE; AND

1 (2) BY AN OFFICER OF THE UNITED STATES ARMY OR AIR FORCE, AS
2 PROVIDED BY FEDERAL LAW OR REGULATION.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 65, § 26.

5 In subsection (c) of this section, the reference to an enlisted "individual" is
6 substituted for the former reference to enlisted "men". *See* General
7 Revisor's Note to title.

8 In subsection (d)(1) of this section, the former reference to "the judgment
9 of" the Governor is deleted as redundant of the requirement that the
10 Governor act whenever the Governor "considers it advisable".

11 In subsection (d)(2) of this section, the reference to the "Air Force" is added
12 to conform to 32 U.S.C. § 105, which requires the Secretary of the Army to
13 have inspections of the Army National Guard conducted, and which
14 states: "The Secretary of the Air Force has a similar duty with respect to
15 the Air National Guard".

16 Also in subsection (d)(2) of this section, the reference to "federal law or
17 regulation" is substituted for the former obsolete reference to the "National
18 Defense Act".

19 13-208. ARREST AND PROHIBITION POWERS OF COMMANDING OFFICERS.

20 (A) ARREST POWERS.

21 DURING A TIME OF DUTY, A COMMANDING OFFICER MAY ARREST FOR THE
22 PERIOD OF THE TIME OF DUTY AN INDIVIDUAL WHO:

23 (1) TRESPASSES ON A CAMP GROUND, PARADE GROUND, ARMORY, OR
24 OTHER PLACE DEVOTED TO THAT DUTY;

25 (2) DISRUPTS IN ANY WAY THE ORDERLY DISCHARGE OF DUTY BY
26 THOSE UNDER ARMS; OR

27 (3) INTERRUPTS OR PREVENTS THE PASSAGE OF TROOPS GOING TO OR
28 RETURNING FROM DUTY.

29 (B) PROHIBITION POWERS.

30 A COMMANDING OFFICER MAY PROHIBIT WITHIN THE LIMITS OF A POST, CAMP
31 GROUND, PLACE OF ENCAMPMENT, PARADE, OR DRILL THAT IS UNDER THE
32 COMMAND OF THE OFFICER:

33 (1) THE SALE OR USE OF ALCOHOLIC BEVERAGES;

34 (2) HUCKSTER OR AUCTION SALES; AND

35 (3) GAMBLING.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 65, § 55.

3 In the introductory language of subsection (a) of this section, the phrase
4 "for the period of the time of duty" is substituted for the former phrase
5 "during the continuance thereof" for clarity.

6 In subsection (a)(2) of this section, the word "disrupts" is substituted for
7 the former phrase "interrupt or molest" for clarity.

8 Also in subsection (a)(2) of this section, the former reference to any
9 "manner" is deleted as included in the reference to "any way".

10 In subsection (a)(3) of this section, the word "interrupts" is substituted for
11 the former word "disturb" for clarity.

12 In subsection (b) of this section, the former reference to "prevent" is deleted
13 as included in the reference to "prohibit".

14 In subsection (b)(1) of this section, the term "alcoholic beverages" is
15 substituted for the former phrase "all spirituous liquors, wines, ale or beer"
16 for brevity and clarity.

17 13-209. COMPENSATION.

18 (A) CLASSIFICATION AND COMPENSATION OF PERSONNEL; SUBSISTENCE
19 AND ALLOWANCES PROVISIONS.

20 (1) THE ADJUTANT GENERAL, ASSISTANT ADJUTANTS GENERAL,
21 OFFICERS, WARRANT OFFICERS, AND ENLISTED INDIVIDUALS WHO ARE FULL-TIME
22 EMPLOYEES OF THE DEPARTMENT ARE:

23 (I) MILITARY PERSONNEL ON STATE ACTIVE DUTY; AND

24 (II) ENTITLED TO THE SAME PAY, INCLUDING LONGEVITY PAY,
25 SUBSISTENCE, PER DIEM, AND ALLOWANCES, AS OFFICERS, WARRANT OFFICERS,
26 AND ENLISTED INDIVIDUALS OF LIKE GRADE AND LENGTH OF SERVICE IN THE
27 UNITED STATES ARMY OR AIR FORCE.

28 (2) (I) FOR INCOME TAX PURPOSES, SUBSISTENCE AND ALLOWANCES
29 SHALL BE TREATED IN THE SAME WAY UNDER STATE LAW AS THEY ARE TREATED BY
30 THE INTERNAL REVENUE CODE AND FEDERAL INCOME TAX REGULATIONS.

31 (II) SUBSISTENCE AND ALLOWANCES MAY NOT BE USED IN
32 CALCULATING THE SALARY BASE FOR RETIREMENT PURPOSES FOR AN EMPLOYEE
33 WHO IS A MEMBER OF THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE.

34 (B) HOLDING MULTIPLE OFFICES SIMULTANEOUSLY.

35 AN INDIVIDUAL WHO HOLDS MORE THAN ONE OF THE OFFICES MENTIONED IN
36 SUBSECTION (A) OF THIS SECTION SIMULTANEOUSLY SHALL RECEIVE ONLY THE

1 PAY, INCLUDING LONGEVITY PAY, SUBSISTENCE, PER DIEM, AND ALLOWANCES AS
2 PROVIDED UNDER THIS SECTION, FOR A SINGLE OFFICE.

3 (C) OFFICE OF PROFIT.

4 A MILITARY OFFICE FOR WHICH NO SALARY IS PROVIDED IN THE STATE
5 BUDGET IS NOT AN OFFICE OF PROFIT.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 65, § 9(e) and (f) and the second sentence of § 5(b).

8 In subsection (a)(1) of this section, the reference to enlisted "individuals" is
9 substituted for the former reference to enlisted "persons". *See* General
10 Revisor's Note to title.

11 Also in subsection (a)(1) of this section, the former reference to the Army or
12 Air Force "as the case may be" is deleted for brevity.

13 In subsection (a)(2) of this section, the former reference to the "United
14 States" is deleted as unnecessary.

15 In subsection (b) of this section, the phrase "pay, including longevity pay,
16 subsistence, per diem, and allowances" is substituted for the former phrase
17 "pay allowances and subsistence" for consistency.

18 The Public Safety Article Review Committee notes, for consideration by the
19 General Assembly, that the Employees' Retirement System of the State is
20 only one of several systems in the State Retirement and Pension System.
21 *See* SP § 21-102. The General Assembly may wish to consider including
22 the other State pension systems.

23 The Public Safety Article Review Committee also notes, for consideration
24 by the General Assembly, that in subsection (c) of this section, the meaning
25 of the term "military office" is unclear. Article 35 of the Declaration of
26 Rights, the constitutional prohibition on dual office holding, states that
27 "membership in the militia of this State ... shall not be considered an office
28 of profit within the meaning of this Article ...". Article 35 does not limit the
29 provision to an office for which "no salary is provided in the State budget".

30 Defined terms: "Department" § 13-101

31 "State active duty" § 13-101

32 13-210. WORKERS' COMPENSATION INSURANCE.

33 (A) ORGANIZED MILITIA.

34 (1) THIS SUBSECTION APPLIES TO THE PERIOD OF TIME THAT AN
35 EMPLOYEE IS ORDERED BY THE GOVERNOR TO ACTIVE MILITARY DUTY IN THE
36 ORGANIZED MILITIA OF THE STATE FOR SERVICE DURING:

- 1 (I) A CIVIL DISORDER;
 2 (II) A NATURAL DISASTER;
 3 (III) A LABOR DISORDER; OR
 4 (IV) ANY OTHER ACTIVITY REQUIRING SUPPORT OF THE STATE
 5 MILITIA.

6 (2) THE ADJUTANT GENERAL SHALL SECURE COMPENSATION UNDER
 7 THE MARYLAND WORKERS' COMPENSATION ACT FOR EACH OFFICER AND ENLISTED
 8 INDIVIDUAL OF THE ORGANIZED MILITIA BY MAINTAINING AN INSURANCE POLICY
 9 WITH THE INJURED WORKERS' INSURANCE FUND OR WITH A STOCK CORPORATION
 10 OR MUTUAL ASSOCIATION AUTHORIZED TO TRANSACT THE BUSINESS OF WORKERS'
 11 COMPENSATION INSURANCE IN THE STATE.

12 (3) (I) AN OFFICER, ENLISTED INDIVIDUAL, OR EMPLOYEE OF THE
 13 DEPARTMENT IS NOT ENTITLED TO THE BENEFITS OF THIS SECTION IF THE
 14 OFFICER, ENLISTED INDIVIDUAL, OR EMPLOYEE IS INJURED IN THE COURSE OF
 15 EMPLOYMENT AND HAS INSURANCE COVERAGE THROUGH THE FEDERAL
 16 GOVERNMENT THAT IS EQUAL TO OR BETTER THAN THE COVERAGE PROVIDED BY
 17 THIS TITLE.

18 (II) IF A BENEFIT PROVIDED BY THE FEDERAL GOVERNMENT IS
 19 LESS THAN THAT PROVIDED BY THE MARYLAND WORKERS' COMPENSATION ACT, THE
 20 STATE AND ITS INSURER SHALL FURNISH THE ADDITIONAL BENEFIT NECESSARY TO
 21 MAKE UP THE DIFFERENCE BETWEEN THE BENEFIT PROVIDED BY THE FEDERAL
 22 GOVERNMENT AND THE SIMILAR BENEFIT REQUIRED UNDER THE MARYLAND
 23 WORKERS' COMPENSATION ACT.

24 (4) THE INSURANCE PROVIDED UNDER THIS SUBSECTION SHALL ONLY
 25 COVER INCIDENTS THAT OCCUR AFTER JULY 1, 1979.

26 (B) MARYLAND DEFENSE FORCE.

27 IN ADDITION TO THE BENEFITS UNDER SUBSECTION (A) OF THIS SECTION, THE
 28 ADJUTANT GENERAL SHALL MAINTAIN WORKERS' COMPENSATION INSURANCE FOR
 29 MEMBERS OF THE MARYLAND DEFENSE FORCE DURING TRAINING.

30 (C) PREMIUMS.

31 THE ADJUTANT GENERAL SHALL PAY THE PREMIUMS FOR THE INSURANCE
 32 POLICY REQUIRED UNDER THIS SECTION FROM APPROPRIATIONS FOR THE MILITIA
 33 THAT THE GOVERNOR INCLUDES IN THE STATE BUDGET.

34 REVISOR'S NOTE: This section is new language derived without substantive
 35 change from former Art. 65, § 16.

36 In subsection (a)(2) of this section, the reference to the "Maryland"
 37 Workers' Compensation Act is added for accuracy. See LE § 9-1201.

1 % Also in subsection (a)(2) of this section, the former reference to the
2 organized militia "of the State of Maryland" is deleted as surplusage.

3 In subsection (a)(2) and (3) of this section, the references to an enlisted
4 "individual" are substituted for the former references to an enlisted "man"
5 and "men". *See* General Revisor's Note to title.

6 In subsection (a)(4) of this section, the former reference to "State active
7 duty" is deleted as surplusage.

8 In subsection (b) of this section, the reference to "benefits under subsection
9 (a) of this section" is substituted for the former reference to "State active
10 duty benefits" for clarity.

11 Defined terms: "Department" § 13-101

12 "Maryland Defense Force" § 13-101

13 13-211. SERVICE MEDALS AND RIBBON BADGES.

14 (A) SERVICE MEDALS.

15 (1) TO PROMOTE EFFICIENCY AND REWARD CONTINUOUS SERVICE, THE
16 GOVERNOR MAY ISSUE SERVICE MEDALS OF APPROPRIATE DESIGNS TO OFFICERS
17 AND ENLISTED INDIVIDUALS IN THE ORGANIZED MILITIA WHO HAVE COMPLETED 5
18 YEARS OR MORE OF CONTINUOUS SERVICE.

19 (2) THE GOVERNOR SHALL ADOPT REGULATIONS TO CARRY OUT THIS
20 SUBSECTION.

21 (B) RIBBON BADGES.

22 (1) THE STATE MAY ISSUE APPROPRIATE RIBBON BADGES TO
23 REPRESENT ANY ISSUED OR AUTHORIZED MEDAL.

24 (2) AN OFFICER OR ENLISTED INDIVIDUAL IN THE ORGANIZED MILITIA
25 MAY WEAR A RIBBON BADGE ISSUED UNDER THIS SUBSECTION AS PART OF THE
26 UNIFORM.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 65, § 37.

29 In subsection (a)(1) of this section, the former reference to the organized
30 militia "of the State" is deleted as surplusage.

31 Also in subsection (a)(1) of this section, the reference to enlisted
32 "individuals" is substituted for the former reference to enlisted "men". *See*
33 General Revisor's Note to title.

1 13-212. FREE PASSAGE OVER ROADS, BRIDGES, AND FERRIES WHILE TRAVELING TO
2 AND FROM DUTY.

3 A MEMBER OF THE ORGANIZED MILITIA, INCLUDING THE MEMBER'S
4 CONVEYANCE AND MILITARY PROPERTY, SHALL BE ALLOWED FREE PASSAGE
5 THROUGH ANY TOLL GATE AND OVER ANY TOLL ROAD, BRIDGE, OR FERRY IF THE
6 MEMBER:

7 (1) IS TRAVELING TO OR RETURNING FROM A PARADE, ENCAMPMENT,
8 DRILL, OR OTHER DUTY THAT THE MEMBER MAY BE REQUIRED BY LAW TO ATTEND;
9 AND

10 (2) PRESENTS AN ORDER FOR DUTY OR IDENTIFICATION CARD.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 65, § 54.

13 In the introductory language of this section, the former reference to the
14 organized militia "of this State" is deleted as surplusage.

15 In item (1) of this section, the term "duty" is substituted for the former
16 word "meeting" to reflect the current nomenclature.

17 In item (2) of this section, the reference to "identification card" is
18 substituted for the obsolete reference to a "certificate of membership" to
19 reflect the current practice of the Military Department.

20 13-213. RETIRED OFFICERS AND ENLISTED INDIVIDUALS.

21 (A) IN GENERAL.

22 THE GOVERNOR MAY ADOPT REGULATIONS THAT PROVIDE FOR THE
23 RETIREMENT OF OFFICERS AND ENLISTED INDIVIDUALS.

24 (B) REACTIVATION OF RETIRED OFFICERS OR ENLISTED INDIVIDUALS.

25 THE GOVERNOR MAY ORDER A RETIRED OFFICER OR ENLISTED INDIVIDUAL TO
26 ACTIVE DUTY.

27 (C) RETIRED LIST.

28 (1) THERE IS A RETIRED LIST EXCLUSIVELY RESTRICTED TO RETIRED
29 OFFICERS AND ENLISTED INDIVIDUALS OF THE ORGANIZED MILITIA.

30 (2) THE RETIRED LIST SHALL BE DIVIDED INTO THREE GROUPS OF
31 RETIRED INDIVIDUALS:

32 (I) THE NATIONAL GUARD;

33 (II) THE MARYLAND DEFENSE FORCE; AND

1 (III) THE INACTIVE NATIONAL GUARD.

2 REVISOR'S NOTE: This section is new language derived without substantive
3 change from former Art. 65, § 18.

4 Throughout this section, the references to enlisted "individuals" and
5 "individual" are substituted for the former references to enlisted "men" and
6 "man". *See* General Revisor's Note to title.

7 In subsection (a) of this section, the former reference to regulations "as he
8 shall deem proper" is deleted as surplusage.

9 In subsection (c)(2)(iii) of this section, the reference to the "Inactive
10 National Guard" is substituted for the former obsolete reference to the
11 "Maryland Minute Men". *See* Ch. 638, Acts of 1999.

12 Defined terms: "Maryland Defense Force" § 13-101

13 "National Guard" § 13-101

14 13-214. PROHIBITIONS.

15 (A) FORMING MILITARY ORGANIZATIONS.

16 EXCEPT FOR THE UNITS OF THE ORGANIZED MILITIA AND THE TROOPS OF THE
17 UNITED STATES, A BODY OF PERSONS MAY NOT ASSOCIATE AS A MILITARY COMPANY
18 OR ORGANIZATION OR PARADE IN PUBLIC AS A MILITARY COMPANY OR
19 ORGANIZATION WITHOUT THE PERMISSION OF THE GOVERNOR.

20 (B) FOREIGN MILITARY FORCES IN THE STATE WITHOUT PERMISSION OF
21 GOVERNOR.

22 EXCEPT FOR TROOPS ACTING UNDER THE AUTHORITY OF THE PRESIDENT, AN
23 ARMED MILITARY FORCE FROM ANOTHER STATE MAY NOT ENTER THIS STATE FOR
24 MILITARY DUTY WITHOUT THE PERMISSION OF THE GOVERNOR.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 65, § 35.

27 In subsection (a) of this section, the former reference to associating
28 "themselves together" is deleted as implicit in the word "associate".

29 In subsection (b) of this section, the former reference to a "territory or
30 district" is deleted because "state" is defined to include territories and the
31 District of Columbia. *See* § 1-101 of this article.

32 Defined terms: "Person" § 1-101

33 "State" § 1-101

34 13-215. HONOR GUARD AT BURIAL SERVICE OF VETERAN.

35 (A) IN GENERAL.

1 (1) THE ADJUTANT GENERAL MAY ORGANIZE A UNIFORMED HONOR
2 GUARD FROM THE NATIONAL GUARD OR THE ORGANIZED MILITIA TO ATTEND THE
3 BURIAL SERVICE OF A DECEASED VETERAN IF:

4 (I) THE COMMANDER OF AN ACCREDITED VETERANS'
5 ORGANIZATION OR A RELATIVE OR FRIEND OF THE DECEASED VETERAN REQUESTS
6 AN HONOR GUARD TO ATTEND THE BURIAL SERVICE;

7 (II) A UNIFORMED HONOR GUARD FROM THE ACTIVE ARMED
8 FORCES OR VETERANS' ORGANIZATION IS NOT AVAILABLE; AND

9 (III) THE ADJUTANT GENERAL DETERMINES THAT PROVIDING AN
10 HONOR GUARD WILL NOT HARM:

11 1. THE READINESS OF THE NATIONAL GUARD IN THE EVENT
12 OF A STATE OR FEDERAL EMERGENCY; OR

13 2. THE EMPLOYMENT OF A NATIONAL GUARD MEMBER.

14 (2) IF AN HONOR GUARD FROM THE ACTIVE ARMED FORCES IS NOT
15 AVAILABLE, THE ADJUTANT GENERAL MAY REQUEST AN HONOR GUARD FROM A
16 VETERANS' ORGANIZATION TO ATTEND THE BURIAL SERVICE OF A DECEASED
17 VETERAN.

18 (B) COMPENSATION.

19 (1) THE ADJUTANT GENERAL SHALL SET REASONABLE COMPENSATION
20 FOR HONOR GUARD MEMBERS BASED ON THE AVAILABILITY OF MONEY IN THE
21 BUDGET.

22 (2) COMPENSATION MAY NOT EXCEED THE EXPENSES INCURRED TO
23 PARTICIPATE IN THE BURIAL SERVICE OF A DECEASED VETERAN PLUS THE GREATER
24 OF:

25 (I) 100% OF 1 DAY'S PAY AS DETERMINED BY THE CURRENT
26 DEPARTMENT OF DEFENSE PAY SCALE; AND

27 (II) THE MINIMUM WAGE REQUIRED UNDER § 3-413 OF THE LABOR
28 AND EMPLOYMENT ARTICLE.

29 (C) REGULATIONS.

30 THE ADJUTANT GENERAL SHALL ADOPT REGULATIONS TO CARRY OUT THIS
31 SECTION.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 65, § 6.

34 In the introductory language of subsection (a)(1)(iii) of this section, the
35 word "harm" is substituted for the former reference to "hav[ing] a
36 detrimental effect on" for brevity.

1 Defined term: "National Guard" § 13-101

2 13-216. ACQUISITION OF PROPERTY FOR AIR NATIONAL GUARD.

3 THE DEPARTMENT MAY ACQUIRE BY PURCHASE OR CONDEMNATION REAL
4 PROPERTY LOCATED IN BALTIMORE COUNTY ADJACENT TO THE MARTIN STATE
5 AIRPORT THAT IS NECESSARY FOR THE SAFE OPERATION OF THE FIGHTER
6 SQUADRON OF THE MARYLAND AIR NATIONAL GUARD.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 65, § 60.

9 The word "may" is substituted for the former phrase "authorized and
10 empowered" for clarity and brevity.

11 The former reference to "certain" real properties is deleted as surplusage.

12 The reference to "Martin State Airport" is substituted for the former
13 reference to the "Glenn L. Martin Plant" to reflect the current name of the
14 facility.

15 Defined term: "Department" § 13-101

16 13-217. SALE OF SUPERFLUOUS ARMORIES.

17 (A) IN GENERAL.

18 WITH THE PRIOR APPROVAL OF THE BOARD OF PUBLIC WORKS, THE
19 DEPARTMENT MAY SELL ARMORIES THAT ARE SUPERFLUOUS TO THE
20 DEPARTMENT'S REQUIREMENTS.

21 (B) RIGHT OF FIRST REFUSAL BY COUNTY OR MUNICIPAL CORPORATION.

22 (1) THE COUNTY OR MUNICIPAL CORPORATION IN WHICH THE ARMORY
23 IS LOCATED HAS THE RIGHT OF FIRST REFUSAL TO PURCHASE THE ARMORY.

24 (2) IF THE COUNTY OR MUNICIPAL CORPORATION DECLINES TO
25 PURCHASE THE PROPERTY, THE DEPARTMENT SHALL SELL THE PROPERTY AT
26 PUBLIC SALE FOR THE HIGHEST CASH PRICE OBTAINABLE.

27 (C) DISPOSITION OF PROCEEDS.

28 THE PROCEEDS OF A SALE SHALL BE PLACED IN THE ANNUITY BOND FUND
29 UNDER § 8-132 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 65, § 61.

32 In subsection (a) of this section, the phrase "from time to time", which
33 formerly modified the authority to sell armories, is deleted as surplusage.

1 %In subsection (c) of this section, the reference to "§ 8-132 of the State
2 Finance and Procurement Article" is added for clarity.

3 Defined terms: "County" § 1-101

4 "Department" § 13-101

5 SUBTITLE 3. ADJUTANT GENERAL; ASSISTANTS AND OTHER PERSONNEL.

6 13-301. ADJUTANT GENERAL.

7 (A) IN GENERAL.

8 THE ADJUTANT GENERAL:

9 (1) IS THE HEAD OF THE DEPARTMENT;

10 (2) SHALL BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND
11 CONSENT OF THE SENATE;

12 (3) IS SUBORDINATE ONLY TO THE GOVERNOR IN MATTERS RELATING
13 TO THE DEPARTMENT;

14 (4) SHALL HAVE A COMMISSIONED GRADE NOT ABOVE THAT OF
15 LIEUTENANT GENERAL; AND

16 (5) SHALL BE A FULL-TIME EMPLOYEE OF THE DEPARTMENT IN STATE
17 ACTIVE DUTY STATUS.

18 (B) QUALIFICATIONS.

19 AT THE TIME OF APPOINTMENT, THE ADJUTANT GENERAL SHALL:

20 (1) HAVE AT LEAST 10 YEARS OF COMMISSIONED FIELD GRADE SERVICE
21 IN THE NATIONAL GUARD;

22 (2) HAVE ATTAINED AT LEAST THE RANK OF COLONEL; AND

23 (3) MEET THE REQUIREMENTS FOR FEDERAL RECOGNITION AT THE
24 RANK OF MAJOR GENERAL.

25 (C) GOVERNOR'S EXECUTIVE COUNCIL.

26 THE ADJUTANT GENERAL IS A MEMBER OF THE GOVERNOR'S EXECUTIVE
27 COUNCIL.

28 (D) ACTING ADJUTANT GENERAL.

29 IF THE ADJUTANT GENERAL IS ORDERED INTO THE ACTIVE MILITARY SERVICE
30 OF THE UNITED STATES, THE GOVERNOR MAY DESIGNATE AN ACTING ADJUTANT
31 GENERAL TO EXERCISE THE DUTIES OF THE ADJUTANT GENERAL DURING THE
32 PERIOD THE ADJUTANT GENERAL IS ON ACTIVE MILITARY SERVICE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 41, § 10-101 and former Art. 65, § 9(a)(1) and (2),
3 (d), (k), and, as they related to full-time employment in active duty status,
4 (e) and (j), and the second and third sentences and the first clause of the
5 first sentence of § 10.

6 In subsection (a)(1) of this section, the term "Department" is substituted
7 for the former obsolete reference to the "Department of the Militia".

8 Also in subsection (a)(1) of this section, the former references to the
9 Adjutant General "having and exercising the rights, powers, duties,
10 obligations and functions now or hereafter conferred by law" and "be[ing]
11 in control of the Military Department of the State" are deleted as implicit
12 in the statement that the Adjutant General is the head of the Military
13 Department.

14 In subsection (a)(5) of this section, the former reference to the Adjutant
15 General being "military personnel" is deleted as included in the reference
16 to being in "State active duty status".

17 In the introductory language of subsection (b) of this section, the reference
18 to "at the time of appointment" is added to state explicitly what was
19 formerly only implied in subsection (b)(1) and (2) of this section, *i.e.*, that
20 the Adjutant General must fulfill these requirements when appointed.
21 Under former law, this requirement explicitly applied to subsection (b)(3)
22 of this section.

23 In subsection (c) of this section, the former clause "[n]otwithstanding any
24 other provision of law," is deleted because no other provision of law is in
25 conflict.

26 Also in subsection (c) of this section, the term "Executive Council" is
27 substituted for the former obsolete term "cabinet" for consistency with the
28 State Government Article. *See* SG Title 8, Subtitle 1.

29 In subsection (d) of this section, the former reference to being "called" into
30 active military service of the United States is deleted as included in the
31 reference to being "ordered" into active service.

32 Also in subsection (d) of this section, the former reference to being ordered
33 into service "under the Constitution and laws of the United States" is
34 deleted as implicit in the reference to being ordered into service "of the
35 United States".

36 Also in subsection (d) of this section, the reference to the duties of the
37 "Adjutant General" is substituted for the former reference to the duties of
38 the "office" for clarity.

39 Also in subsection (d) of this section, the reference to "the period the
40 Adjutant General is on active military service" is substituted for the former

1 reference to "such period" for clarity.

2 Defined terms: "Department" § 13-101

3 "National Guard" § 13-101

4 "State active duty" § 13-101

5 13-302. SAME -- DUTIES.

6 (A) APPOINTMENTS.

7 (1) THE ADJUTANT GENERAL MAY APPOINT:

8 (I) A CHIEF OF STATE OPERATIONS;

9 (II) AN EXECUTIVE OFFICER;

10 (III) AN ADMINISTRATIVE OFFICER;

11 (IV) THE DIRECTORS OF MILITARY INSTALLATIONS,
12 PROCUREMENT, MILITARY SUPPORT TO CIVIL AUTHORITIES, STATE PERSONNEL,
13 FINANCE, AND VETERANS AFFAIRS;

14 (V) THE SITE MANAGERS FOR MILITARY RESERVATIONS; AND

15 (VI) A GRANTS ADMINISTRATOR.

16 (2) THE EXECUTIVE OFFICER AND DIRECTORS APPOINTED UNDER
17 PARAGRAPH (1) OF THIS SUBSECTION SERVE AT THE PLEASURE OF THE ADJUTANT
18 GENERAL.

19 (B) RECORDS.

20 (1) THE ADJUTANT GENERAL SHALL KEEP ALL RECORDS REQUIRED TO
21 BE KEPT AND FILED WITH THE ADJUTANT GENERAL'S OFFICE.

22 (2) ON OR BEFORE EACH OCTOBER 15, THE ADJUTANT GENERAL SHALL
23 SUBMIT TO THE GOVERNOR A DETAILED STATEMENT OF ALL THE RECEIPTS AND
24 EXPENDITURES FOR MILITARY PURPOSES DURING THE YEAR ENDING THE PREVIOUS
25 SEPTEMBER 30.

26 (C) ARMORIES.

27 (1) THE ADJUTANT GENERAL IS RESPONSIBLE FOR:

28 (I) EACH ARMORY THAT THE STATE OWNS; AND

29 (II) EACH BUILDING OR OTHER PROPERTY PURCHASED, OCCUPIED,
30 OR LEASED BY OR ON BEHALF OF THE STATE MILITARY FORCES.

31 (2) IF THE ADJUTANT GENERAL REJECTS AN APPLICATION TO USE AN
32 ARMORY FOR NONMILITARY PURPOSES, THE APPLICATION IS SUBJECT TO REVIEW

1 AND APPROVAL BY THE BOARD OF PUBLIC WORKS, THE ADJUTANT GENERAL, AND
2 THE COMMANDING OFFICER OF THE UNIT OCCUPYING THAT ARMORY.

3 (3) THE ADJUTANT GENERAL MAY ADOPT REGULATIONS TO ENFORCE
4 THIS SUBSECTION.

5 (D) BATTLE FLAGS.

6 THE ADJUTANT GENERAL IS THE CUSTODIAN OF BATTLE FLAGS AND WAR
7 RECORDS AND IS RESPONSIBLE FOR THEIR PROPER CARE AND PRESERVATION.

8 (E) EMPLOYEES.

9 THE ADJUTANT GENERAL MAY EMPLOY EMPLOYEES AS REQUIRED.

10 (F) POLICIES OF GOVERNOR.

11 THE ADJUTANT GENERAL SHALL CARRY OUT THE GOVERNOR'S POLICIES
12 CONCERNING MATTERS SPECIFIED IN THIS TITLE AND TITLE 14, SUBTITLES 1, 2, AND
13 4 OF THIS ARTICLE.

14 (G) SEAL.

15 THE SEAL OF THE ADJUTANT GENERAL'S OFFICE SHALL BE DELIVERED BY THE
16 ADJUTANT GENERAL TO THE ADJUTANT GENERAL'S SUCCESSOR.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 65, §§ 7, 9(a)(4), and the fourth through eighth
19 sentences of § 10.

20 In subsection (a)(1) of this section, the former phrase "[n]otwithstanding
21 any other provision of law," is deleted because no other provision of law is
22 in conflict.

23 In subsection (b)(1) of this section, the former reference to keeping records
24 "in his office" is deleted as implicit in the requirement that "[t]he Adjutant
25 General shall keep" the records.

26 Also in subsection (b)(1) of this section, the former reference to "papers" is
27 deleted as included in the reference to "records".

28 In subsection (b)(2) of this section, the phrase "[o]n or before each October
29 15" is substituted for the former reference to "fifteen days" after the "30th
30 of September" for clarity and brevity.

31 Also in subsection (b)(2) of this section, the reference to "the year ending
32 the previous September 30" is substituted for the former vague phrase
33 "during the year" for clarity.

34 In the introductory language of subsection (c)(1) of this section, the
35 reference to the Adjutant General being "responsible for" is substituted for

- 1 the former references to the Adjutant General being "charged with the
2 care, control, and maintenance" and to having "all power and authority
3 necessary or desirable for the purpose aforesaid" for brevity.
- 4 In subsection (c)(1) of this section, the former reference to property "which
5 may now or shall hereafter be authorized by law" is deleted as surplusage.
- 6 Also in subsection (c)(1) of this section, the former reference to a building
7 or other property being "rented" is deleted as included in the reference to
8 the building or other property being "leased".
- 9 In subsection (c)(3) of this section, the reference to the power of the
10 Adjutant General to "adopt" regulations is substituted for the former
11 reference to a right to "make" regulations for consistency.
- 12 Also in subsection (c)(3) of this section, the former reference to "rules" is
13 deleted as included in the reference to "regulations". *See* General Revisor's
14 Note to article.
- 15 Also in subsection (c)(3) of this section, the former reference to
16 "reasonable" regulations is deleted in light of SG Title 10, Subtitle 1, which
17 requires that regulations be adopted according to a procedure that ensures
18 reasonableness.
- 19 Also in subsection (c)(3) of this section, the phrase "to enforce this
20 subsection" is added for clarity.
- 21 In subsections (d) and (e) of this section, the references to the "Adjutant
22 General" are substituted for the former word "[h]e" for gender neutrality
23 and consistency. *See* Art. 1, § 7.
- 24 In subsection (e) of this section, the former references to "necessary"
25 employees and "as many" laborers as may be required are deleted for
26 brevity.
- 27 Also in subsection (e) of this section, the former references to "clerks" and
28 "laborers" are deleted as included in the reference to "employees".
- 29 Also in subsection (e) of this section, the former phrase "from time to time"
30 is deleted as surplusage.
- 31 In subsection (f) of this section, the former reference to the Adjutant
32 General "be[ing] responsible for" carrying out the Governor's policies is
33 deleted as surplusage.
- 34 In subsection (g) of this section, the former reference to the seal being
35 "used" by the Adjutant General's office is deleted as surplusage and
36 implicit in the reference to the "seal of the Adjutant General's office".

1 13-303. ASSISTANT ADJUTANTS GENERAL.

2 (A) IN GENERAL.

3 (1) THE GOVERNOR SHALL APPOINT TWO ASSISTANT ADJUTANTS
4 GENERAL FOR THE MARYLAND ARMY NATIONAL GUARD AND TWO ASSISTANT
5 ADJUTANTS GENERAL FOR THE MARYLAND AIR NATIONAL GUARD.

6 (2) AN ASSISTANT ADJUTANT GENERAL SERVES AT THE PLEASURE OF
7 THE GOVERNOR.

8 (3) UNLESS SELECTED FOR A MILITARY POSITION REQUIRING FEDERAL
9 RECOGNITION AS A MAJOR GENERAL, AN ASSISTANT ADJUTANT GENERAL SHALL
10 HAVE A COMMISSIONED GRADE NOT ABOVE THAT OF BRIGADIER GENERAL.

11 (B) QUALIFICATIONS.

12 TO BE APPOINTED AS AN ASSISTANT ADJUTANT GENERAL AN INDIVIDUAL
13 SHALL:

14 (1) HAVE AT LEAST 10 YEARS OF COMMISSIONED FIELD GRADE SERVICE
15 IN THE NATIONAL GUARD; AND

16 (2) HAVE ATTAINED AT LEAST THE RANK OF COLONEL.

17 (C) DUTIES.

18 AN ASSISTANT ADJUTANT GENERAL SHALL PERFORM THE MILITARY DUTIES
19 THAT ARE ASSIGNED BY THE GOVERNOR OR ADJUTANT GENERAL.

20 (D) EMPLOYMENT STATUS.

21 (1) ONE OF THE ASSISTANT ADJUTANTS GENERAL FOR THE MARYLAND
22 ARMY NATIONAL GUARD AND ONE OF THE ASSISTANT ADJUTANTS GENERAL FOR
23 THE MARYLAND AIR NATIONAL GUARD SHALL BE FULL-TIME EMPLOYEES OF THE
24 DEPARTMENT IN STATE ACTIVE DUTY STATUS.

25 (2) THE OTHER TWO ASSISTANT ADJUTANTS GENERAL SHALL BE
26 TRADITIONAL DRILLING GUARD MEMBERS.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 65, § 9(b)(1), (2), (4), (5), and (6), (c)(1), (2), (4), (5),
29 and (6), (h), (e) as it related to active duty status, and, as it related to
30 Assistant Adjutants General, (j).

31 In subsections (a) and (d)(1) of this section, the references to the "Maryland
32 Army National Guard" and "Maryland Air National Guard" are
33 substituted for the former references to "Army" and "Air" for clarity.

34 In subsection (a)(1) of this section, the former reference "[t]here shall be
35 four Assistant Adjutants General" is deleted as redundant of the

1 requirement that there be two Assistant Adjutants General for the
2 Maryland Army National Guard and two Assistant Adjutants General for
3 the Maryland Air National Guard.

4 In subsection (d)(1) of this section, the former reference to "each" being a
5 full-time employee is deleted as surplusage.

6 Also in subsection (d)(1) of this section, the former reference to the
7 Assistant Adjutants General being "military personnel" is deleted as
8 included in the reference to them being in "State active duty status".

9 Defined terms: "Department" § 13-101

10 "National Guard" § 13-101

11 "State active duty" § 13-101

12 13-304. COMPENSATION.

13 THE ADJUTANT GENERAL AND THE ASSISTANT ADJUTANTS GENERAL SHALL
14 HAVE A SALARY AS STATED IN THE ANNUAL BUDGET.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 65, § 9(a)(3), (b)(3), (c)(3), and, as it related to the
17 salary of the Adjutant General, the first sentence of § 10.

18 13-305. DEPUTY ADJUTANT GENERAL FOR MARYLAND ARMY NATIONAL GUARD.

19 (A) IN GENERAL.

20 (1) THE GOVERNOR SHALL APPOINT A DEPUTY ASSISTANT ADJUTANT
21 GENERAL FOR THE MARYLAND ARMY NATIONAL GUARD.

22 (2) THE DEPUTY ASSISTANT ADJUTANT GENERAL SERVES AT THE
23 PLEASURE OF THE ADJUTANT GENERAL.

24 (B) COMMISSION AND DUTIES.

25 THE DEPUTY ASSISTANT ADJUTANT GENERAL FOR THE MARYLAND ARMY
26 NATIONAL GUARD SHALL:

27 (1) HAVE A COMMISSIONED GRADE NOT ABOVE THAT OF BRIGADIER
28 GENERAL; AND

29 (2) PERFORM THE MILITARY DUTIES ASSIGNED BY THE GOVERNOR OR
30 THE ADJUTANT GENERAL.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 65, § (9)(i).

33 In subsection (a)(1) and the introductory language of subsection (b) of this
34 section, the reference to "Maryland Army National Guard" is substituted
35 for the former reference to "Army" for clarity.

1 13-306. OTHER STAFF.

2 (A) OFFICERS, WARRANT OFFICERS, AND ENLISTED INDIVIDUALS.

3 OFFICERS, WARRANT OFFICERS, AND ENLISTED INDIVIDUALS WHO ARE
4 FULL-TIME EMPLOYEES OF THE DEPARTMENT ARE IN STATE ACTIVE DUTY STATUS.

5 (B) CHIEF OF STAFF AND AIDES.

6 (1) THE GOVERNOR MAY APPOINT A CHIEF OF STAFF AND AIDES.

7 (2) THE CHIEF OF STAFF AND AIDES SERVE AT THE PLEASURE OF THE
8 GOVERNOR.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 65, § 9(g) and, as it related to part of the first
11 sentence, (e).

12 In subsection (a) of this section, the reference to enlisted "individuals" is
13 substituted for the former reference to enlisted "persons". *See* General
14 Revisor's Note to title.

15 Also in subsection (a) of this section, the former reference to "military
16 personnel" is deleted as implicit in the reference to them being in "State
17 active duty status".

18 In subsection (b) of this section, the phrase "may appoint" is substituted for
19 the former reference "appointment ... shall be" at the pleasure of the
20 Governor to clarify that these appointments are discretionary with the
21 Governor.

22 Defined terms: "Department" § 13-101

23 "State active duty" § 13-101

24 SUBTITLE 4. NATIONAL GUARD.

25 13-401. COMPOSITION; ORGANIZATION.

26 (A) COMPOSITION.

27 (1) THE NATIONAL GUARD CONSISTS OF:

28 (I) THE UNITS OF THE ORGANIZED MILITIA ALLOCATED TO THE
29 STATE BY THE UNITED STATES DEPARTMENT OF DEFENSE THAT ARE SUPPORTED
30 WHOLLY OR PARTLY BY FEDERAL FUNDS; AND

31 (II) INDIVIDUALS TRANSFERRED WITH THE APPROVAL OF THE
32 GOVERNOR TO THE NATIONAL GUARD BY FEDERAL AUTHORITIES TO COMPLETE A
33 RESERVE SERVICE OBLIGATION IMPOSED BY FEDERAL LAW.

1 (2) THE INACTIVE NATIONAL GUARD CONSISTS OF OFFICERS AND
2 ENLISTED INDIVIDUALS COMMISSIONED IN, ENLISTED IN, OR TRANSFERRED TO THE
3 INACTIVE NATIONAL GUARD.

4 (3) AN INDIVIDUAL TRANSFERRED TO THE NATIONAL GUARD IS
5 CONSIDERED A MEMBER OF THE NATIONAL GUARD WHETHER OR NOT THE
6 INDIVIDUAL EXECUTED THE OATH PRESCRIBED BY § 13-206 OF THIS TITLE.

7 (B) ORGANIZATION.

8 THE NATIONAL GUARD AND ITS UNITS SHALL BE ORGANIZED AS PRESCRIBED
9 FOR THE UNITED STATES ARMY OR UNITED STATES AIR FORCE, SUBJECT IN TIME OF
10 PEACE TO GENERAL EXCEPTIONS THAT THE SECRETARY OF THE ARMY OR THE
11 SECRETARY OF THE AIR FORCE AUTHORIZE.

12 (C) POWER OF GOVERNOR.

13 IF THE NATIONAL GUARD OR ANY OF ITS UNITS ARE ORDERED INTO ACTIVE
14 MILITARY SERVICE OF THE UNITED STATES BY THE PRESIDENT OF THE UNITED
15 STATES, THE GOVERNOR MAY INCREASE THE MILITARY FORCE AND ORGANIZE
16 THOSE UNITS AS THE EMERGENCY REQUIRES.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 65, §§ 17 and 15(b), (c), and (d).

19 In subsection (a)(1)(i) of this section, the reference to the "United States
20 Department of Defense" is added for clarity.

21 Also in subsection (a)(1)(i) of this section, the former reference to
22 "organizations" is deleted as duplicative of the reference to "units".

23 In subsection (a)(2) of this section, the reference to enlisted "individuals" is
24 substituted for the former reference to enlisted "men". *See* General
25 Revisor's Note to title.

26 In subsection (c) of this section, the former reference to being "called" into
27 active service is deleted as included in the reference to being "ordered" into
28 active service.

29 Also in subsection (c) of this section, the term "may" is substituted for the
30 former reference to the Governor "hav[ing] the power ... in his judgment"
31 for brevity.

32 The Public Safety Article Review Committee notes, for consideration by the
33 General Assembly, that subsection (a)(1) of this section, which describes
34 the composition of the National Guard, is inconsistent with the definition
35 of the National Guard in 10 U.S.C. § 101.

36 Defined term: "National Guard" § 13-101

1 13-402. POLICE POWER.

2 (A) IN GENERAL.

3 A MEMBER OF THE NATIONAL GUARD HAS THE SAME POLICE POWER,
4 AUTHORITY, AND STATUS WITH RESPECT TO THE ENFORCEMENT OF THE LAW
5 RELATING TO CRIMINAL MATTERS IN THE MILITARY AREA TO WHICH THE MEMBER
6 IS ASSIGNED, AS A LAW ENFORCEMENT OR PEACE OFFICER HAS IN THE OFFICER'S
7 RESPECTIVE JURISDICTION IF:

8 (1) THE ADJUTANT GENERAL DESIGNATES THE MEMBER AS NATIONAL
9 GUARD FULL-TIME SUPPORT PERSONNEL UNDER TITLE 32 OF THE UNITED STATES
10 CODE;

11 (2) THE DEPARTMENT CONTROLS OR HAS JURISDICTION OVER THE
12 MEMBER; AND

13 (3) THE MEMBER IS ACTING AS A NATIONAL GUARD MEMBER.

14 (B) DEFENSES.

15 A MEMBER OF THE NATIONAL GUARD HAS THE IMMUNITIES AND DEFENSES
16 AVAILABLE TO A LAW ENFORCEMENT OR PEACE OFFICER IN A CRIMINAL
17 PROCEEDING OR CIVIL SUIT BROUGHT BECAUSE OF AN ACT PERFORMED IN THE
18 COURSE OF EMPLOYMENT AND DUTY UNDER THIS SECTION.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 65, § 8A.

21 In the introductory language of subsection (a) and in subsection (b) of this
22 section, the reference to "law enforcement" officer is substituted for the
23 former reference to "sheriffs, constables, [or] police" for brevity.

24 In subsection (b) of this section, the reference to having "immunities and
25 defenses" available is substituted for the former reference to having
26 immunities and defenses "now available or such as hereafter may be made
27 available" for brevity.

28 Defined terms: "Department" § 13-101

29 "National Guard" § 13-101

30 13-403. ASSIGNMENT TO DIVISIONS, BRIGADES, AND OTHER TACTICAL UNITS.

31 (A) IN GENERAL.

32 TO MAINTAIN AN APPROPRIATE ORGANIZATION AND TO ASSIST IN
33 INSTRUCTION AND TRAINING, THE PRESIDENT OF THE UNITED STATES MAY:

34 (1) ASSIGN THE NATIONAL GUARD TO DIVISIONS, BRIGADES, AND
35 OTHER TACTICAL UNITS; AND

1 (2) DETAIL OFFICERS FROM THE NATIONAL GUARD OR THE UNITED
2 STATES ARMY OR AIR FORCE TO COMMAND THOSE UNITS.

3 (B) LIMITATIONS.

4 A COMMANDING OFFICER OF A COMPLETE UNIT ORGANIZED IN THE STATE MAY
5 NOT BE DISPLACED UNDER THIS SECTION.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 65, § 40.

8 In subsection (a)(2) of this section, the reference to the "Air Force" is added
9 to conform to federal law providing for command by officers of the United
10 States Air Force. *See* General Revisor's Note to title.

11 Defined term: "National Guard" § 13-101

12 13-404. POWER OF NATIONAL GUARD TO RECEIVE PROPERTY AND REVENUES.

13 (A) DESIGNATION AS LAW ENFORCEMENT AGENCY.

14 EXCEPT AS OTHERWISE AUTHORIZED BY LAW, THE NATIONAL GUARD:

15 (1) IS DESIGNATED AS A LAW ENFORCEMENT AGENCY FOR THE SOLE
16 PURPOSE OF RECEIVING PROPERTY AND REVENUES; AND

17 (2) MAY RECEIVE PROPERTY AND REVENUES UNDER 18 U.S.C. § 981(E)(2),
18 19 U.S.C. § 1616A(C)(1)(B)(II), AND 21 U.S.C. §§ 881(E)(1)(A) AND (E)(3) FROM THOSE
19 FEDERAL UNITS THAT ARE SUPPORTED BY NATIONAL GUARD MEMBERS IN THE
20 COUNTER DRUG PROGRAM.

21 (B) USAGE OF PROPERTY AND REVENUES RECEIVED.

22 (1) ANY PROPERTY OR REVENUES RECEIVED BY THE NATIONAL GUARD
23 UNDER THIS SECTION SHALL BE USED TO SUPPLEMENT THE RESOURCES
24 ALLOCATED TO THE COUNTER DRUG PROGRAM.

25 (2) THE USE OF THE PROPERTY AND REVENUES SHALL CONFORM TO
26 THE GUIDELINES OF THE UNITED STATES DEPARTMENT OF JUSTICE, THE UNITED
27 STATES DEPARTMENT OF DEFENSE, AND THE UNITED STATES DEPARTMENT OF THE
28 TREASURY.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 65, § 8B.

31 In subsection (b)(2) of this section, the former reference "received by the
32 National Guard" is deleted as surplusage.

33 Defined term: "National Guard" § 13-101

1 13-405. TUITION ASSISTANCE.

2 (A) DEFINITIONS.

3 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (2) "INSTITUTION" MEANS:

6 (I) ANY CAMPUS OF THE UNIVERSITY SYSTEM OF MARYLAND, ANY
7 COMMUNITY COLLEGE ESTABLISHED UNDER TITLE 16 OF THE EDUCATION ARTICLE,
8 MORGAN STATE UNIVERSITY, OR ST. MARY'S COLLEGE;

9 (II) ANY PRIVATE INSTITUTION OF HIGHER EDUCATION THAT
10 GRANTS A MEMBER A TUITION WAIVER OF AT LEAST 50%;

11 (III) ANY PUBLIC POSTSECONDARY VOCATIONAL-TECHNICAL OR
12 TRADE SCHOOL; OR

13 (IV) ANY PRIVATE POSTSECONDARY VOCATIONAL-TECHNICAL OR
14 TRADE SCHOOL THAT GRANTS A MEMBER A TUITION WAIVER OF AT LEAST 50%.

15 (3) "MEMBER" MEANS AN INDIVIDUAL WHO:

16 (I) IS REGULARLY ENLISTED IN THE NATIONAL GUARD; OR

17 (II) HOLDS A COMMISSION IN THE NATIONAL GUARD AS:

18 1. AN OFFICER IN THE GRADE OF MAJOR OR BELOW; OR

19 2. A WARRANT OFFICER.

20 (4) (I) "TUITION" MEANS THE BASIC INSTRUCTIONAL CHARGE FOR
21 UNDERGRADUATE CREDIT COURSES AND RELATED FEES AT AN INSTITUTION.

22 (II) "TUITION" DOES NOT INCLUDE CHARGES FOR
23 SELF-SUPPORTING PROGRAMS.

24 (B) AMOUNT.

25 TO THE EXTENT THAT FUNDS ARE PROVIDED IN THE STATE BUDGET, THE
26 DEPARTMENT MAY PROVIDE ASSISTANCE EQUAL TO 50% OF THE COST OF IN-STATE
27 TUITION FOR ANY REGULARLY SCHEDULED UNDERGRADUATE CREDIT COURSE,
28 VOCATIONAL-TECHNICAL COURSE, OR TRADE COURSE FOR ANY ACTIVE MEMBER
29 ATTENDING AN INSTITUTION WHO IS CERTIFIED AS ELIGIBLE BY THE ADJUTANT
30 GENERAL.

31 (C) ELIGIBILITY.

32 (1) THE ADJUTANT GENERAL MAY NOT CERTIFY A MEMBER AS ELIGIBLE
33 UNLESS THE MEMBER IS:

1 (I) ENLISTED AND HAS AT LEAST 24 MONTHS REMAINING TO
2 SERVE ON THE CURRENT ENLISTMENT OF THE MEMBER; OR

3 (II) AN OFFICER OR WARRANT OFFICER AND AGREES IN WRITING
4 TO SERVE FOR A MINIMUM OF 24 MONTHS.

5 (2) THE 24-MONTH REQUIREMENT RUNS FROM THE FIRST DAY OF
6 CLASSES FOR THE SEMESTER.

7 (D) EFFECT OF DISCHARGE.

8 IF A RECIPIENT OF TUITION ASSISTANCE UNDER THIS SECTION IS DISCHARGED
9 FROM THE NATIONAL GUARD FOR A REASON DESIGNATED BY THE ADJUTANT
10 GENERAL, THE ASSISTANCE TERMINATES AND THE MEMBER SHALL REIMBURSE THE
11 DEPARTMENT THE AMOUNT OF TUITION ASSISTANCE RECEIVED FOR THAT
12 SEMESTER WITHIN 30 DAYS OF DISCHARGE.

13 REVISOR'S NOTE: This section formerly was Art. 65, § 12A.

14 In subsection (d) of this section, the reference to a requirement that a
15 member "reimburse" the Department is substituted for the former
16 reference to a member "ow[ing]" the Department for clarity.

17 Defined terms: "Department" § 13-101

18 "National Guard" § 13-101

19 SUBTITLE 5. MARYLAND DEFENSE FORCE.

20 13-501. ESTABLISHED.

21 (A) IN GENERAL.

22 (1) THE GOVERNOR MAY ORGANIZE AND MAINTAIN IN THE STATE A
23 MARYLAND DEFENSE FORCE.

24 (2) THE GOVERNOR MAY DISBAND OR REDUCE THE SIZE OF THE
25 MARYLAND DEFENSE FORCE AT ANY TIME.

26 (B) SEPARATE FROM NATIONAL GUARD.

27 THE MARYLAND DEFENSE FORCE IS IN ADDITION TO AND SEPARATE FROM THE
28 NATIONAL GUARD.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 65, § 62, as it related to the organization,
31 maintaining, and naming of the Maryland Defense Force.

32 In subsection (a)(1) of this section, the former phrase "as the Governor may
33 deem necessary" is deleted as unnecessary in light of the word "may".
34 Similarly, in subsection (a)(2) of this section, the former reference to any

1 time "he deems proper" is deleted as unnecessary in light of the phrase
2 "may ... at any time".

3 Defined terms: "Maryland Defense Force" § 13-101

4 "National Guard" § 13-101

5 13-502. REGULATIONS.

6 (A) IN GENERAL.

7 (1) THE GOVERNOR MAY ADOPT REGULATIONS TO CARRY OUT THIS
8 TITLE GOVERNING THE ENLISTMENT, ORGANIZATION, ADMINISTRATION,
9 EQUIPMENT, MAINTENANCE, TRAINING, AND DISCIPLINE OF THE MARYLAND
10 DEFENSE FORCE.

11 (2) THE GOVERNOR MAY PRESCRIBE A UNIFORM FOR THE MARYLAND
12 DEFENSE FORCE.

13 (B) CONSISTENT WITH LAW GOVERNING NATIONAL GUARD.

14 AS THE GOVERNOR CONSIDERS PRACTICABLE AND DESIRABLE, REGULATIONS
15 ADOPTED UNDER THIS SECTION SHALL CONFORM TO EXISTING LAW AND
16 REGULATIONS THAT GOVERN THE NATIONAL GUARD.

17 (C) GIFTS, DONATIONS, AND GRATUITIES PROHIBITED.

18 THE REGULATIONS SHALL PROHIBIT THE MARYLAND DEFENSE FORCE OR A
19 MEMBER OF THE MARYLAND DEFENSE FORCE FROM ACCEPTING GIFTS, DONATIONS,
20 GRATUITIES, OR ANYTHING OF VALUE FROM A PERSON IN CONNECTION WITH THE
21 MEMBER'S SERVICE IN THE MARYLAND DEFENSE FORCE.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 65, § 63 and the fourth sentence of § 62.

24 In subsections (a)(1) and (b) of this section, the former references to "rules"
25 are deleted as included in the references to "regulations". *See* General
26 Revisor's Note to article.

27 In subsection (a)(1) of this section, the reference to regulations "carry[ing]
28 out" this subtitle is substituted for the former reference to regulations "not
29 inconsistent with the provisions" of this subtitle for consistency.

30 Also in subsection (a)(1) of this section, the word "adopt" is substituted for
31 the former word "prescribe" for consistency.

32 In subsection (c) of this section, the reference to a "person" is substituted
33 for the former phrase "individual, firm, association, or corporation"
34 because these entities are included in the definition of "person" under §
35 1-101. *See* § 1-101 of this article.

1 Defined terms: "Maryland Defense Force" § 13-101

2 "National Guard" § 13-101

3 "Person" § 1-101

4 13-503. COMPOSITION.

5 (A) IN GENERAL.

6 THE MARYLAND DEFENSE FORCE CONSISTS OF:

7 (1) COMMISSIONED OR ASSIGNED OFFICERS; AND

8 (2) ABLE-BODIED CITIZENS OF THE STATE WHO VOLUNTEER TO SERVE.

9 (B) QUALIFICATIONS.

10 AN INDIVIDUAL MAY NOT BE COMMISSIONED OR ENLISTED IN THE MARYLAND
11 DEFENSE FORCE IF THE INDIVIDUAL:

12 (1) IS NOT A CITIZEN OF THE UNITED STATES; OR

13 (2) HAS BEEN EXPELLED OR DISHONORABLY DISCHARGED FROM A
14 MILITARY OR NAVAL ORGANIZATION OF THIS STATE OR ANOTHER STATE OR FROM
15 THE UNITED STATES ARMED FORCES.

16 (C) ENLISTING AS ORGANIZATIONS.

17 A CIVIL ORGANIZATION, SOCIETY, CLUB, POST, ORDER, FRATERNITY,
18 ASSOCIATION, BROTHERHOOD, BODY, UNION, LEAGUE, OR OTHER COMBINATION OF
19 PERSONS OR CIVIL GROUPS MAY NOT ENLIST IN THE MARYLAND DEFENSE FORCE AS
20 AN ORGANIZATION OR UNIT.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 65, §§ 71 and 72 and the second sentence of § 62.

23 In subsection (a) of this section, the former reference "able-bodied persons
24 of foreign birth who have declared their intentions to become citizens,
25 resident in the State" is deleted because it conflicts with the provisions of
26 subsection (b)(1) of this section, which prohibits noncitizens from serving
27 in the Maryland Defense Force, and as contrary to the practice of the
28 Military Department.

29 In the introductory language of subsection (b) of this section, the reference
30 to an "individual" is substituted for the former reference to a "person". *See*
31 General Revisor's Note to title.

32 In subsection (b)(2) of this section, the phrase "armed forces" is added to
33 incorporate the various branches of the United States Military.

34 Defined terms: "Maryland Defense Force" § 13-101

35 "Person" § 1-101

1 "State" § 1-101

2 13-504. COMPENSATION; OATH; ENLISTMENT PERIOD; RESIGNATION.

3 (A) COMPENSATION.

4 A MEMBER OF THE MARYLAND DEFENSE FORCE WHO IS ORDERED TO ACTIVE
5 DUTY BY THE GOVERNOR OR BY THE GOVERNOR'S AUTHORITY IS ENTITLED TO THE
6 COMPENSATION SPECIFIED FOR OFFICERS AND ENLISTED INDIVIDUALS AS
7 PROVIDED UNDER § 13-704 OF THIS TITLE.

8 (B) OFFICER'S OATH.

9 AN OFFICER COMMISSIONED IN THE MARYLAND DEFENSE FORCE SHALL TAKE
10 AN OATH SUBSTANTIALLY IN THE FORM REQUIRED FOR OFFICERS OF THE
11 ORGANIZED MILITIA, SUBSTITUTING "MARYLAND DEFENSE FORCE" WHERE
12 NECESSARY IN THE OATH.

13 (C) ENLISTED INDIVIDUAL'S OATH.

14 AN INDIVIDUAL WHO ENLISTS IN THE MARYLAND DEFENSE FORCE SHALL TAKE
15 AN OATH SUBSTANTIALLY IN THE FORM REQUIRED FOR ENLISTED PERSONNEL OF
16 THE ORGANIZED MILITIA, SUBSTITUTING "MARYLAND DEFENSE FORCE" WHERE
17 NECESSARY IN THE OATH.

18 (D) ENLISTMENT PERIOD.

19 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
20 ENLISTMENT PERIOD IN THE MARYLAND DEFENSE FORCE IS 2 YEARS AND MAY BE
21 RENEWED.

22 (2) IF THE NATIONAL GUARD IS CALLED INTO ACTIVE FEDERAL
23 SERVICE, ALL ENLISTMENTS SHALL CONTINUE UNTIL 6 MONTHS AFTER THE
24 NATIONAL GUARD HAS BEEN RELEASED FROM ACTIVE FEDERAL SERVICE UNLESS
25 THE ENLISTED INDIVIDUAL IS DISCHARGED SOONER BY THE PROPER AUTHORITY.

26 (E) RESIGNATION OR DISCHARGE.

27 THE GOVERNOR MAY ACCEPT THE RESIGNATION OF AN OFFICER OR GRANT A
28 DISCHARGE TO AN ENLISTED INDIVIDUAL AT ANY TIME.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 65, §§ 64, 73, 74, and 75.

31 In subsections (a) and (e) of this section, the term enlisted "individual[s]" is
32 substituted for the former terms enlisted "men" and "man". *See* General
33 Revisor's Note to title.

34 In subsection (a) of this section, the word "compensation" is substituted for
35 the former word "pay" to conform to similar provisions in other revised
36 articles of the Code.

1 %Also in subsection (a) of this section, the former reference to "the organized
2 militia" is deleted as surplusage.

3 In subsections (b) and (c) of this section, the word "required" is substituted
4 for the former word "prescribed" for consistency with other revised articles
5 of the Code.

6 Defined terms: "Maryland Defense Force" § 13-101

7 "National Guard" § 13-101

8 13-505. REQUIREMENTS BY GOVERNOR.

9 (A) ARMS AND EQUIPMENT.

10 THE GOVERNOR MAY REQUISITION ANY ARMS AND EQUIPMENT FROM THE
11 SECRETARY OF THE ARMY THAT ARE IN THE POSSESSION OF AND CAN BE SPARED BY
12 THE DEPARTMENT OF THE ARMY FOR USE BY THE MARYLAND DEFENSE FORCE.

13 (B) STATE ARMORY FACILITIES AND EQUIPMENT.

14 THE GOVERNOR MAY ALLOW THE MARYLAND DEFENSE FORCE TO USE THE
15 FACILITIES AND EQUIPMENT OF A STATE ARMORY OR OTHER AVAILABLE STATE
16 PREMISES AND PROPERTY.

17 (C) AUTHORIZATION TO USE SCHOOL BUILDINGS AND PREMISES.

18 A SCHOOL AUTHORITY MAY ALLOW THE MARYLAND DEFENSE FORCE TO USE A
19 SCHOOL BUILDING OR SCHOOL GROUNDS.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 65, § 66.

22 Defined term: "Maryland Defense Force" § 13-101

23 13-506. USE OUTSIDE OF THIS STATE.

24 (A) IN GENERAL.

25 EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION, THE
26 MARYLAND DEFENSE FORCE MAY NOT BE REQUIRED TO SERVE OUTSIDE THE STATE.

27 (B) REQUEST OF GOVERNOR OF ANOTHER STATE.

28 (1) ON REQUEST OF THE GOVERNOR OF ANOTHER STATE, THE
29 GOVERNOR OF THIS STATE MAY ORDER THE MARYLAND DEFENSE FORCE TO SERVE
30 OUTSIDE THE STATE TO ASSIST THE MILITARY OR LAW ENFORCEMENT FORCES OF
31 THE OTHER STATE THAT ARE ACTUALLY DEFENDING THAT STATE.

32 (2) THE GOVERNOR OF THIS STATE MAY RECALL THE MARYLAND
33 DEFENSE FORCE FROM THE OTHER STATE.

1 (C) FRESH PURSUIT.

2 IF FRESH PURSUIT IS AUTHORIZED BY LAW OF ANOTHER STATE, ANY
3 ORGANIZATION, UNIT, OR DETACHMENT OF THE MARYLAND DEFENSE FORCE, ON
4 THE ORDER OF THE COMMANDING OFFICER OF THE ORGANIZATION, UNIT, OR
5 DETACHMENT, MAY CONTINUE IN FRESH PURSUIT OF INSURRECTIONISTS,
6 SABOTEURS, OR ENEMIES OUTSIDE OF THIS STATE INTO THE OTHER STATE UNTIL:

7 (1) THE INSURRECTIONISTS, SABOTEURS, OR ENEMIES ARE
8 APPREHENDED; OR

9 (2) THE MILITARY OR LAW ENFORCEMENT FORCES OF THE OTHER
10 STATE OR FORCES OF THE UNITED STATES HAVE HAD A REASONABLE OPPORTUNITY
11 TO PURSUE OR APPREHEND THE INSURRECTIONISTS, SABOTEURS, OR ENEMIES.

12 (D) SURRENDER OF CAPTURED PERSONS.

13 (1) AN ORGANIZATION, UNIT, OR DETACHMENT OF THE MARYLAND
14 DEFENSE FORCE SHALL SURRENDER WITHOUT UNNECESSARY DELAY AN
15 INDIVIDUAL APPREHENDED IN ANOTHER STATE TO THE MILITARY OR LAW
16 ENFORCEMENT FORCE OF:

17 (I) THE STATE OF APPREHENSION; OR

18 (II) THE UNITED STATES.

19 (2) THE SURRENDER OF AN INDIVIDUAL APPREHENDED UNDER
20 PARAGRAPH (1) OF THIS SUBSECTION TO THE MILITARY OR LAW ENFORCEMENT
21 FORCES OF ANOTHER STATE IS NOT A WAIVER BY THIS STATE OF THE RIGHT TO
22 EXTRADITE OR PROSECUTE THE INDIVIDUAL FOR A CRIME COMMITTED IN THIS
23 STATE.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 65, § 68.

26 Throughout this section, the references to a "law enforcement" force or
27 forces are substituted for the former references to a "police" force or forces
28 for conformity with other provisions of this title. *See, e.g.*, §§ 13-402 and
29 13-507 of this title.

30 In subsection (a) of this section, the former reference to "boundaries" is
31 deleted as implicit in the reference to service "outside the State".

32 In subsection (b) of this section, the former references to the Governor's
33 "discretion" are deleted as implicit in the word "may".

34 In subsection (b)(2) of this section, the reference to a recall "from the other
35 state" is added for clarity.

36 In subsections (c)(1) and (2) and (d)(1) of this section, the former references

1 to "captured" and "capture" are deleted as implicit in the references to
2 "apprehended", "apprehend", and "apprehension".

3 In the introductory language of subsection (c) of this section, the reference
4 to pursuit "outside" of this State is substituted for the former reference to
5 pursuit "beyond the borders" of this State for brevity.

6 In subsection (c)(1) of this section, the former reference to "enemy forces" is
7 deleted as included in the reference to "enemies".

8 Also in subsection (c)(1) of this section, the former reference to individuals
9 apprehended "by such organization, unit, or detachment" is deleted as
10 surplusage.

11 In subsection (c)(2) of this section, the reference to "insurrectionists,
12 saboteurs, or enemies" is substituted for the former reference "such
13 persons" for clarity.

14 In the introductory language of subsection (d)(1) of this section, the
15 reference to an "individual" is substituted for the former reference to "such
16 persons". *See* General Revisor's Note to title.

17 In subsection (d)(2) of this section, the references to "an individual
18 apprehended" and "the individual" are substituted for the former
19 references to "insurrectionists or saboteurs" for consistency within this
20 section.

21 Defined terms: "Maryland Defense Force" § 13-101

22 "State" § 1-101

23 13-507. PURSUIT BY FORCES OF OTHER STATES.

24 (A) IN GENERAL.

25 A MILITARY FORCE OR AN ORGANIZATION, UNIT, OR DETACHMENT OF A
26 MILITARY FORCE OF ANOTHER STATE THAT IS IN FRESH PURSUIT OF
27 INSURRECTIONISTS, SABOTEURS, OR ENEMIES MAY:

28 (1) CONTINUE PURSUIT INTO THIS STATE UNTIL THE MILITARY OR LAW
29 ENFORCEMENT FORCE OF THIS STATE OR THE FORCES OF THE UNITED STATES
30 HAVE HAD A REASONABLE OPPORTUNITY TO PURSUE OR APPREHEND THE
31 INSURRECTIONISTS, SABOTEURS, OR ENEMIES; AND

32 (2) ARREST AN INSURRECTIONIST, SABOTEUR, OR ENEMY
33 APPREHENDED IN THIS STATE WHILE IN FRESH PURSUIT.

34 (B) SURRENDER OF CAPTURED PERSONS.

35 A MILITARY FORCE OF ANOTHER STATE THAT ARRESTS AN INDIVIDUAL IN THIS
36 STATE SHALL SURRENDER WITHOUT UNNECESSARY DELAY THE INDIVIDUAL TO THE

1 MILITARY OR LAW ENFORCEMENT FORCE OF THIS STATE OR THE UNITED STATES TO
2 BE DEALT WITH ACCORDING TO LAW.

3 (C) CONSTRUCTION.

4 (1) THIS SECTION DOES NOT MAKE UNLAWFUL AN ARREST IN THIS
5 STATE THAT WOULD OTHERWISE BE LAWFUL.

6 (2) THIS SECTION DOES NOT REPEAL ANY PROVISION OF THE UNIFORM
7 ACT ON FRESH PURSUIT UNDER TITLE 2, SUBTITLE 3, PART II OF THE CRIMINAL
8 PROCEDURE ARTICLE.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 65, § 69.

11 Throughout subsection (a) of this section, the former references to "enemy
12 forces" are deleted as included in the references to "enemies".

13 In subsections (a)(1) and (2) and (b) of this section, the former references to
14 "capture" and "captured" are deleted as implicit in the references to
15 "apprehen[sion]" and "arrest".

16 In subsections (a)(1) and (b) of this section, the references to a "law
17 enforcement" force are substituted for the former references to a "police"
18 force for conformity with other provisions of this title. *See, e.g.*, §§ 13-402
19 and 13-506 of this title.

20 In subsection (b) of this section, the reference to an "individual" is
21 substituted for the former reference to "such persons". *See* General
22 Revisor's Note to title.

23 In subsection (c)(2) of this section, the phrase "under Title 2, Subtitle 3,
24 Part II of the Criminal Procedure Article" is added to provide a convenient
25 cross-reference to the Uniform Act on Fresh Pursuit.

26 Also in subsection (c)(2) of this section, the former reference to the Uniform
27 Act on Fresh Pursuit "of Criminals" is deleted to conform to CP Title 2,
28 Subtitle 3, Part II.

29 Defined term: "State" § 1-101

30 13-508. FEDERAL SERVICE.

31 (A) IN GENERAL.

32 THIS TITLE DOES NOT AUTHORIZE THE MARYLAND DEFENSE FORCE TO BE
33 ORDERED OR DRAFTED INTO THE MILITARY SERVICE OF THE UNITED STATES.

34 (B) EXEMPTION FROM FEDERAL SERVICE.

1 AN INDIVIDUAL IS NOT EXEMPT FROM MILITARY SERVICE UNDER THE LAWS OF
2 THE UNITED STATES BECAUSE THE INDIVIDUAL IS ENLISTED OR COMMISSIONED IN
3 THE MARYLAND DEFENSE FORCE.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 65, § 70.

6 In subsection (a) of this section, the former phrase "as such" is deleted as
7 redundant of the reference to the "Maryland Defense Force".

8 Also in subsection (a) of this section, the former reference to being "called"
9 is deleted as implicit in the reference to being "ordered" into service.

10 In subsection (b) of this section, the reference to an "individual" is
11 substituted for the former reference to a "person". *See* General Revisor's
12 Note to title.

13 Defined term: "Maryland Defense Force" § 13-101

14 SUBTITLE 6. OFFICERS.

15 13-601. APPOINTMENT AND COMMISSION.

16 (A) APPOINTMENT.

17 THE GOVERNOR SHALL APPOINT AND COMMISSION EACH OFFICER OF THE
18 ORGANIZED MILITIA ON RECOMMENDATION BY:

19 (1) THE BRIGADE COMMANDER IF A COMMANDING OFFICER OF A UNIT
20 OF A BRIGADE; OR

21 (2) THE COMMANDING OFFICER OF THE RESPECTIVE UNIT OR CHIEF OF
22 THE RESPECTIVE STAFF CORPS OR DEPARTMENT IF ANY OTHER OFFICER.

23 (B) QUALIFICATIONS.

24 (1) EACH INDIVIDUAL APPOINTED AS AN OFFICER SHALL BE:

25 (I) AN OFFICER OR ENLISTED INDIVIDUAL OF THE NATIONAL
26 GUARD;

27 (II) A RETIRED, RESERVE, OR FORMER OFFICER OF THE UNITED
28 STATES ARMY, NAVY, MARINE CORPS, AIR FORCE, OR COAST GUARD;

29 (III) AN ENLISTED INDIVIDUAL FROM THE UNITED STATES ARMY,
30 NAVY, MARINE CORPS, AIR FORCE, OR COAST GUARD OR A FORMERLY ENLISTED
31 INDIVIDUAL WHO RECEIVED AN HONORABLE DISCHARGE;

32 (IV) A GRADUATE OF THE UNITED STATES MILITARY ACADEMY,
33 NAVAL ACADEMY, OR AIR FORCE ACADEMY;

1 (V) A GRADUATE OF A SCHOOL, COLLEGE, UNIVERSITY, OR
 2 OFFICERS' TRAINING SCHOOL WHO RECEIVED MILITARY INSTRUCTION UNDER THE
 3 SUPERVISION OF AN OFFICER OF THE UNITED STATES ARMY, NAVY, MARINE CORPS,
 4 AIR FORCE, OR COAST GUARD WHO CERTIFIED THE GRADUATE'S FITNESS FOR
 5 APPOINTMENT AS A COMMISSIONED OFFICER; OR

6 (VI) A CIVILIAN WHO IS SPECIALLY QUALIFIED FOR DUTY IN THE
 7 TECHNICAL BRANCHES OR STAFF CORPS AND DEPARTMENTS.

8 (2) BEFORE TAKING OFFICE, EACH INDIVIDUAL APPOINTED AS AN
 9 OFFICER SHALL TAKE THE OATH AS REQUIRED BY § 13-602 OF THIS SUBTITLE.

10 (C) GENERAL OFFICERS AND COLONELS.

11 WHEN APPOINTED, A GENERAL OFFICER OR COLONEL MUST:

12 (1) BE AN OFFICER IN THE NATIONAL GUARD OF A GRADE OF FIELD
 13 OFFICER; OR

14 (2) HAVE BEEN IN ACTIVE SERVICE IN THE UNITED STATES ARMY, NAVY,
 15 MARINE CORPS, AIR FORCE, OR COAST GUARD OR NATIONAL GUARD WITH A GRADE
 16 HIGHER THAN CAPTAIN.

17 (D) LIEUTENANT-COLONELS AND MAJORS.

18 WHEN APPOINTED, A LIEUTENANT-COLONEL OR MAJOR OF THE LINE MUST
 19 HAVE HAD ACTIVE SERVICE AS AN OFFICER FOR AT LEAST 2 YEARS IN THE UNITED
 20 STATES ARMY, NAVY, MARINE CORPS, AIR FORCE, OR COAST GUARD OR NATIONAL
 21 GUARD.

22 REVISOR'S NOTE: This section is new language derived without substantive
 23 change from former Art. 65, § 20.

24 Throughout this section, references to the United States "Navy", "Marine
 25 Corps", "Air Force", and "Coast Guard" are added as necessary so that all
 26 branches of the armed forces are named. *See* General Revisor's Note to
 27 title.

28 In the introductory language of subsection (a) of this section, the reference
 29 to officers "of the organized militia" is added for clarity.

30 Also in the introductory language of subsection (a) of this section, the
 31 former reference to being recommended "before such appointment" is
 32 deleted as implicit in the requirement that officers must first be
 33 recommended.

34 In subsections (b)(1), (c)(2), and (d) of this section and throughout this
 35 subtitle, the references to the "United States" are added to modify
 36 references to the named branches of the armed forces to reflect the proper
 37 names of the branches of the armed forces.

1 %In the introductory language of subsection (b) of this section, the
2 requirement that an individual "shall be" in one of the listed categories is
3 substituted for the former statement that individuals "shall not be
4 recognized as such under any of the provisions of this article unless they
5 shall have been selected from the following classes" for brevity.

6 In subsection (b)(1)(i) and (iii) of this section, the term enlisted "individual"
7 is substituted for the former term enlisted "men". *See* General Revisor's
8 Note to title.

9 In subsection (b)(1)(iv) of this section, the reference to the "Air Force
10 Academy" is added to reflect the current practice of the Department. *See*
11 General Revisor's Note to title.

12 In subsection (b)(1)(v) of this section, the reference to a "school" is
13 substituted for the former obsolete reference to "camps" for accuracy.

14 Also in subsection (b)(1)(v) of this section, the conjunction "or" is
15 substituted for the former conjunction "and" to clarify that an individual
16 need only satisfy one of the listed criteria to be appointed as an officer.
17 Similarly, in subsection (c) of this section, the conjunction "or" is
18 substituted for the former conjunction "and" to clarify that an individual
19 need not be both a general officer and a colonel at the time of appointment.

20 In subsection (b)(2) of this section, the former reference to "subscrib[ing]
21 to" an oath is deleted as included in the reference to "tak[ing]" an oath.

22 In subsection (c)(1) of this section, the former reference to the National
23 Guard "of the State" is deleted in light of the defined term "National
24 Guard" in § 13-101 of this subtitle.

25 The Public Safety Article Review Committee notes, for consideration of the
26 General Assembly, that while the officers' ranks for the Army, Marines,
27 and Air Force are identical, the Navy's and Coast Guard's are different.
28 Subsection (c)(2) of this section requires the individual to have had a grade
29 higher than captain. The third ranking officer for the other branches is a
30 captain; while for the Navy and Coast Guard, it is a lieutenant. A captain
31 in the Navy and Coast Guard is the sixth ranked officer comparable to a
32 colonel in the other branches.

33 Defined term: "National Guard" § 13-101

34 13-602. OATH.

35 A COMMISSIONED OFFICER OF THE ORGANIZED MILITIA SHALL TAKE THE
36 FOLLOWING OATH OF OFFICE:

37 "I,, DO SOLEMNLY SWEAR THAT I WILL SUPPORT AND DEFEND
38 THE CONSTITUTION OF THE UNITED STATES AND THE CONSTITUTION OF THE STATE
39 OF MARYLAND, AGAINST ALL ENEMIES, FOREIGN AND DOMESTIC; THAT I WILL BEAR

1 TRUE FAITH AND ALLEGIANCE TO THE SAME; THAT I WILL OBEY THE ORDERS OF THE
2 PRESIDENT OF THE UNITED STATES AND OF THE GOVERNOR OF THE STATE OF
3 MARYLAND; THAT I MAKE THIS OBLIGATION FREELY, WITHOUT ANY MENTAL
4 RESERVATION OR PURPOSE OF EVASION, AND THAT I WILL WELL AND FAITHFULLY
5 DISCHARGE THE DUTIES OF THE OFFICE OF IN THE NATIONAL GUARD OF
6 THE UNITED STATES AND OF THE STATE OF MARYLAND UPON WHICH I AM ABOUT TO
7 ENTER, SO HELP ME GOD."

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 65, § 19.

10 The former reference to "subscrib[ing] to" an oath is deleted as included in
11 the reference to "tak[ing]" an oath.

12 13-603. EXAMINATION.

13 (A) SUBJECT OF EXAMINATION.

14 EACH INDIVIDUAL APPOINTED AS AN OFFICER SHALL PASS THE TESTS THAT
15 THE GOVERNOR REQUIRES ON PHYSICAL, MORAL, AND PROFESSIONAL FITNESS.

16 (B) METHOD OF EXAMINATION.

17 THE GOVERNOR SHALL APPOINT A BOARD OF THREE COMMISSIONED OFFICERS
18 FROM THE UNITED STATES ARMY OR AIR FORCE OR THE NATIONAL GUARD TO
19 CONDUCT THE EXAMINATION REQUIRED BY SUBSECTION (A) OF THIS SECTION.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from the second sentence of former Art. 65, § 21 and, as it related to
22 examination, the first sentence.

23 In subsection (a) of this section, the former statement that "this article
24 shall not apply to any person hereafter" appointed an officer unless the
25 person passes a test is deleted as surplusage.

26 Also in subsection (a) of this section, the former reference to "successfully"
27 passing tests is deleted as implicit in the requirement to "pass the tests".

28 In subsection (b) of this section, the reference to the "Air Force" is added to
29 conform to the current practice of the Military Department. *See* General
30 Revisor's Note to title.

31 13-604. DATE OF TAKING RANK.

32 AN OFFICER SHALL TAKE RANK FROM THE DATE THAT THE OFFICER WAS
33 COMMISSIONED AND IN THE MANNER THE UNITED STATES DEPARTMENT OF
34 DEFENSE PROVIDES BY REGULATION.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from the first sentence of former Art. 65, § 21, as it related to

1 taking rank.

2 The reference to the "United States Department of Defense" is substituted
3 for the former reference to the "Defense Department" to reflect the proper
4 name of the Department.

5 13-605. BREVET COMMISSIONS.

6 (A) GOVERNOR TO CONFER GRADE.

7 (1) ON THE RECOMMENDATION OF THE ADJUTANT GENERAL, THE
8 GOVERNOR MAY GRANT TO AN OFFICER OF THE ORGANIZED MILITIA A BREVET
9 COMMISSION OF THE NEXT HIGHER GRADE THAN THE REGULAR COMMISSION HELD
10 BY THE OFFICER.

11 (2) THE GOVERNOR MAY GRANT A BREVET COMMISSION TO AN OFFICER
12 OF THE ORGANIZED MILITIA OF A GRADE EQUAL TO THE HIGHEST GRADE IN WHICH
13 THE OFFICER PREVIOUSLY SERVED IN THE ORGANIZED MILITIA OR IN THE UNITED
14 STATES ARMY, NAVY, MARINE CORPS, AIR FORCE, OR COAST GUARD.

15 (B) RIGHTS AND PRIVILEGES.

16 A BREVET COMMISSION CARRIES ONLY THE RIGHTS OR PRIVILEGES THAT ARE
17 ALLOWED IN LIKE CASES IN THE MILITARY SERVICE OF THE UNITED STATES.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 65, § 36.

20 In subsection (a)(2) of this section, the reference to the United States
21 "Navy, Marine Corps, Air Force, or Coast Guard" is added so that all
22 branches of the armed forces are named. *See* General Revisor's Note to
23 title.

24 13-606. REMOVAL FROM OFFICE.

25 (A) IN GENERAL.

26 EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE OR BY REGULATIONS OF THE
27 UNITED STATES DEPARTMENT OF DEFENSE, A COMMISSIONED OFFICER MAY NOT BE
28 REMOVED FROM OFFICE UNLESS THE OFFICER CONSENTS TO THE REMOVAL.

29 (B) ACTION BY EFFICIENCY BOARD.

30 A COMMISSIONED OFFICER SHALL BE DISCHARGED IF:

31 (1) AN EFFICIENCY BOARD OF THREE COMMISSIONED OFFICERS,
32 SENIOR IN RANK TO THE OFFICER WHOSE FITNESS FOR SERVICE IS UNDER
33 INVESTIGATION, APPOINTED TO DETERMINE THE MORAL CHARACTER, CAPACITY, OR
34 GENERAL FITNESS FOR SERVICE OF THE COMMISSIONED OFFICER MAKES AN
35 UNFAVORABLE FINDING; AND

1 (2) THE OFFICIAL AUTHORIZED TO APPOINT THE EFFICIENCY BOARD
2 APPROVES OF THE FINDINGS OF THE EFFICIENCY BOARD.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from the first sentence of former Art. 65, § 22.

5 In subsection (a) of this section, the reference to this "title" is substituted
6 for the former reference to this "article" for clarity because former Article
7 65 is revised as this title.

8 Also in subsection (a) of this section, the reference to the "United States
9 Department of Defense" is substituted for the former reference to the
10 "Defense Department" to reflect the proper name of the Department.

11 In subsection (b)(1) of this section, the former reference to authority to act
12 "at any time" is deleted as surplusage.

13 13-607. VACATING COMMISSION.

14 A COMMISSION OF AN OFFICER MAY BE VACATED:

- 15 (1) ON RESIGNATION;
- 16 (2) THROUGH ABSENCE WITHOUT LEAVE FOR 3 MONTHS;
- 17 (3) ON RECOMMENDATION OF AN EFFICIENCY BOARD; OR
- 18 (4) UNDER A SENTENCE OF A COURT-MARTIAL.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from the second sentence of former Art. 65, § 22.

21 13-608. RESIGNATION OF OFFICER.

22 (A) HONORABLE DISCHARGE.

23 A COMMISSIONED OFFICER TENDERING A RESIGNATION SHALL RECEIVE AN
24 HONORABLE DISCHARGE IF:

- 25 (1) THE GOVERNOR ACCEPTS THE RESIGNATION;
- 26 (2) THE OFFICER IS NOT UNDER ARREST OR RETURNED TO A MILITARY
27 COURT FOR A DEFICIENCY OR DELINQUENCY;
- 28 (3) THE OFFICER IS NOT INDEBTED TO THE STATE; AND
- 29 (4) THE ACCOUNTS OF THE OFFICER FOR MONEY OR PUBLIC PROPERTY
30 ARE CORRECT.

31 (B) OTHER -- DISCHARGES.

1 (1) IF THE GOVERNOR ACCEPTS THE RESIGNATION OF AN OFFICER
2 WHO, AT THE TIME OF THE RESIGNATION, IS UNDER ARREST, UNDER CHARGES, OR
3 RETURNED TO A MILITARY COURT FOR AN OFFENSE, DEFICIENCY, OR DELINQUENCY,
4 THE OFFICER SHALL:

5 (I) CEASE TO BE AN OFFICER; AND

6 (II) RECEIVE A DISCHARGE IN A FORM THAT THE GOVERNOR
7 DIRECTS.

8 (2) AN OFFICER WHO RESIGNS UNDER PARAGRAPH (1) OF THIS
9 SUBSECTION IS NOT ELIGIBLE TO RECEIVE A COMMISSION UNLESS THE OFFICER:

10 (I) REENLISTS; AND

11 (II) PERFORMS AT LEAST 100% OF DUTY IN EACH YEAR OF THE
12 REENLISTMENT FOR 2 SUCCESSIVE YEARS.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 65, § 23.

15 Defined term: "State" § 1-101

16 SUBTITLE 7. ACTIVE DUTY OR TRAINING.

17 13-701. AUTHORITY TO ORDER OUT FOR SERVICE; FAILURE TO APPEAR.

18 (A) IN GENERAL.

19 (1) IF THE MILITIA OF THE STATE IS ORDERED UNDER THE
20 CONSTITUTION AND LAWS OF THE UNITED STATES INTO THE ACTIVE MILITARY
21 SERVICE OF THE UNITED STATES, THE GOVERNOR MAY ORDER OUT FOR ACTIVE
22 DUTY THE ORGANIZED MILITIA.

23 (2) IF THE NUMBER OF ORGANIZED MILITIA AVAILABLE IS
24 INSUFFICIENT, THE GOVERNOR MAY ORDER OUT THE UNORGANIZED MILITIA.

25 (B) FAILURE TO APPEAR.

26 EACH MEMBER OF THE UNORGANIZED MILITIA WHO VOLUNTEERS OR IS
27 ORDERED OUT IS SUBJECT TO COURT-MARTIAL UNDER THIS TITLE FOR FAILURE TO
28 APPEAR AT THE TIME AND PLACE DESIGNATED BY THE MEMBER'S COMMANDING
29 OFFICER.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 65, §§ 2 and 4.

32 In subsection (a)(1) and (2) of this section, the former references to "part" of
33 the militia are deleted as implicit in ordering out the militia.

34 Also in subsection (a)(1) and (2) of this section, the former phrases "as may

1 be necessary" and "as he may deem necessary" are deleted as implicit in
2 the discretion granted to the Governor to order out the militia.

3 In subsection (a)(1) of this section, the term "active duty" is substituted for
4 the former term "service". *See* General Revisor's Note to title.

5 Also in subsection (a)(1) of this section, the former reference to being
6 "called" into service is deleted as implicit in the reference to being
7 "ordered" into service.

8 In subsection (a)(2) of this section, the reference to the number "of
9 organized militia" available is added for clarity.

10 In subsection (b) of this section, the reference to this "title" is substituted
11 for the former reference to this "article" for clarity because former Article
12 65 is revised as this title.

13 13-702. MILITIA IN STATE ACTIVE DUTY.

14 (A) SCOPE OF SECTION.

15 THIS SECTION APPLIES TO THE MARYLAND DEFENSE FORCE WHEN THE
16 MARYLAND DEFENSE FORCE EXISTS UNDER LAW.

17 (B) GUBERNATORIAL AUTHORITY TO ORDER MILITIA INTO STATE ACTIVE
18 DUTY.

19 THE GOVERNOR MAY ORDER THE MILITIA INTO STATE ACTIVE DUTY:

20 (1) IN TIMES OF OR ON REASONABLE APPREHENSION OF IMMINENT
21 PUBLIC CRISIS, DISASTER, RIOTING, CATASTROPHE, INSURRECTION, INVASION,
22 TUMULT, OR BREACH OF PEACE;

23 (2) WHEN MARTIAL LAW IS DECLARED;

24 (3) TO ENFORCE THE LAWS; OR

25 (4) TO CARRY ON ANY FUNCTION OF THE MILITIA OF THE STATE.

26 (C) AUTHORITY OF MILITIA IN STATE ACTIVE DUTY.

27 (1) TO ENFORCE THE LAWS, A MEMBER OF THE MILITIA IN STATE
28 ACTIVE DUTY HAS ALL THE AUTHORITY OF A PEACE OR LAW ENFORCEMENT
29 OFFICER.

30 (2) THE AUTHORITY OF THE MEMBER EXTENDS THROUGHOUT THE
31 STATE DURING THE STATE ACTIVE DUTY.

32 (D) RELATIONS WITH OTHER AUTHORITIES.

1 WHENEVER THE MILITIA IS IN STATE ACTIVE DUTY, THE RANKING OFFICER OF
2 THE MILITIA ORDERED INTO STATE ACTIVE DUTY OR THAT OFFICER'S
3 SUBORDINATES ON STATE ACTIVE DUTY SHALL:

4 (1) COOPERATE WITH LOCAL LAW ENFORCEMENT AUTHORITIES; OR

5 (2) IF THE EXIGENCIES OF THE CASE REQUIRE AND SUBJECT ONLY TO
6 ORDER FROM THE GOVERNOR:

7 (I) DIRECT AND CONTROL LOCAL LAW ENFORCEMENT
8 AUTHORITIES AND THE DEPARTMENT OF STATE POLICE; AND

9 (II) ASSUME ALL THE POWERS VESTED IN THESE SUBORDINATED
10 LAW ENFORCEMENT AUTHORITIES.

11 (E) 9-11 SERVICE BAR.

12 (1) ANY INDIVIDUAL WHO IS ORDERED INTO ACTIVE DUTY FOR THE
13 NATIONAL GUARD IN RESPONSE TO THE FOREIGN TERRORIST ATTACKS IN THE
14 UNITED STATES ON SEPTEMBER 11, 2001, SHALL RECEIVE A SERVICE BAR IN
15 RECOGNITION OF THIS SERVICE.

16 (2) THE SERVICE BAR SHALL DEPICT THE STATE FLAG AND "9-11".

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 65, § 8.

19 In subsection (a) of this section, the former reference to the Maryland
20 Defense Force "as defined in the militia laws of Maryland" is deleted as
21 surplusage.

22 In the introductory language of subsections (b) and (d) and in subsection
23 (c)(1) of this section, the term "duty" is substituted for the former term
24 "service" to conform with the defined term "State active duty".

25 Also in the introductory language of subsections (b) and (d) of this section,
26 the former references to "any part" of the militia are deleted as implicit in
27 reference to the militia.

28 In the introductory language of subsection (b) of this section, the former
29 phrase "as he may deem proper or necessary" is deleted as implicit in the
30 discretion granted to the Governor to order the militia into State active
31 duty.

32 In subsection (b)(2) of this section, the former reference to the declaration
33 of martial law "by the law of the land" is deleted as surplusage.

34 In subsections (b)(3) and (c)(1) of this section, the former references to the
35 laws "of this State" are deleted as surplusage.

36 In subsection (c)(2) of this section, the reference to "[t]he authority of the

1 member" is substituted for the former reference to the "bailiwick" of militia
2 members for clarity.

3 In the introductory language of subsection (d) of this section, the former
4 reference to the time when the militia is in the active service of the State
5 "under the provisions of this section" is deleted as implicit in the reference
6 to "State active duty".

7 In subsection (e)(1) of this section, the former reference to the "Maryland"
8 National Guard is deleted as included in the defined term "National
9 Guard". *See* § 13-101 of this title.

10 Defined terms: "Maryland Defense Force" § 13-101

11 "National Guard" § 13-101

12 "State active duty" § 13-101

13 13-703. WARNING FOR DUTY.

14 (A) IN GENERAL.

15 AN OFFICER OR NONCOMMISSIONED OFFICER MAY WARN OFFICERS AND
16 ENLISTED INDIVIDUALS FOR DUTY BY:

17 (1) STATING THE SUBSTANCE OF THE ORDER OR READING THE ORDER
18 TO THE INDIVIDUAL WARNED;

19 (2) LEAVING A COPY OF THE ORDER AT THE LAST KNOWN PLACE OF
20 RESIDENCE OR BUSINESS OF THE INDIVIDUAL; OR

21 (3) MAILING A COPY OF THE ORDER TO THE LAST KNOWN RESIDENCE
22 OR BUSINESS ADDRESS OF THE INDIVIDUAL.

23 (B) RETURN OF WARNING.

24 (1) IF REQUIRED BY THE OFFICER ISSUING THE ORDER, THE OFFICER
25 OR NONCOMMISSIONED OFFICER GIVING WARNING SHALL MAKE A RETURN OF
26 WARNING CONTAINING THE NAME OF THE INDIVIDUAL WARNED AND THE TIME,
27 PLACE, AND MANNER OF WARNING.

28 (2) A RETURN OF WARNING:

29 (I) MAY BE VERIFIED BY THE OFFICER OR NONCOMMISSIONED
30 OFFICER'S OATH, WHICH MAY BE ADMINISTERED BY AN OFFICER; AND

31 (II) IF VERIFIED, AT THE TRIAL OF AN INDIVIDUAL RETURNED AS A
32 DELINQUENT IS EVIDENCE OF THE FACTS STATED IN THE RETURN AND IS TO BE
33 CONSIDERED AS IF THE OFFICER OR NONCOMMISSIONED OFFICER HAD TESTIFIED
34 TO THOSE FACTS BEFORE A COURT-MARTIAL AT TRIAL.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 65, § 28.

1 %Throughout this section, the references to an "individual" are substituted
2 for the former references to a "person". *See* General Revisor's Note to title.

3 In the introductory language of subsection (a) of this section, the term
4 enlisted "individuals" is substituted for the former term enlisted "men".
5 *See* General Revisor's Note to title.

6 In subsection (a)(3) of this section, the reference to a "residence" is
7 substituted for the former reference to a "place of abode" for brevity and
8 conformity to the terminology used throughout this and other revised
9 articles.

10 Also in subsection (a)(3) of this section, the reference to mailing to the "last
11 known residence or business address of the individual" is substituted for
12 the former reference to mailing "to the post office nearest thereto" to
13 comply with constitutional notice requirements.

14 In subsection (b)(1) of this section, the former reference to a "notice" is
15 deleted as implicit in the reference to a "warning".

16 In subsection (b)(2)(ii) of this section, the former reference to "good"
17 evidence is deleted as implicit in the reference to "evidence".

18 13-704. COMPENSATION FOR MILITIA ORDERED OUT FOR STATE ACTIVE DUTY OR
19 TRAINING.

20 (A) SCOPE OF SECTION.

21 THIS SECTION:

22 (1) APPLIES WHEN THE ORGANIZED MILITIA IS ORDERED OUT FOR
23 STATE ACTIVE DUTY OR TRAINING BY THE GOVERNOR OR BY THE GOVERNOR'S
24 AUTHORITY; AND

25 (2) DOES NOT APPLY TO THE ORGANIZED MILITIA WHEN ORDERED TO
26 DUTY INCIDENT TO AN ORDER INTO THE ACTIVE MILITARY SERVICE OF THE UNITED
27 STATES.

28 (B) COMPENSATION FOR OFFICERS, WARRANT OFFICERS, AND ENLISTED
29 PERSONNEL.

30 SUBJECT TO SUBSECTION (D) OF THIS SECTION:

31 (1) AN OFFICER, WARRANT OFFICER, AND ENLISTED INDIVIDUAL SHALL
32 RECEIVE THE SAME PAY, INCLUDING LONGEVITY PAY, SUBSISTENCE, PER DIEM, AND
33 ALLOWANCES, AS AN OFFICER, WARRANT OFFICER, AND ENLISTED INDIVIDUAL OF
34 LIKE GRADE AND LENGTH OF SERVICE IN THE UNITED STATES ARMY OR AIR FORCE;
35 AND

1 (2) AN INDIVIDUAL ORDERED TO ACTIVE DUTY OTHER THAN FOR
 2 TRAINING SHALL BE PAID A DAILY RATE OF AT LEAST 12 TIMES THE HOURLY
 3 FEDERAL MINIMUM WAGE IN EFFECT AT THE TIME OF ACTIVE DUTY.

4 (C) COMPENSATION FOR OTHER PERSONNEL.

5 AN ENLISTED INDIVIDUAL WHO MEETS THE QUALIFICATIONS THAT THE
 6 GOVERNOR SETS IN SMALL ARMS PRACTICE OR FOR PROFICIENCY IN THE VARIOUS
 7 DUTIES OF THE BRANCH OR ARM TO WHICH THE INDIVIDUAL BELONGS SHALL
 8 RECEIVE THE FOLLOWING INCREASE IN PAY OF THE INDIVIDUAL'S GRADE FOR 1
 9 YEAR BEGINNING ON THE FIRST JANUARY 1 AFTER QUALIFICATION:

10 (1) EXPERTS - 20%;

11 (2) SHARPSHOOTERS, GUNNERS, DRIVERS, AND MEDICAL, FIRST CLASS -
 12 15%; AND

13 (3) MARKSMEN, GUNNERS, DRIVERS, AND MEDICAL, SECOND CLASS -
 14 10%.

15 (D) REDUCTION OF PAY.

16 ON THE RECOMMENDATION OF THE ADJUTANT GENERAL, THE GOVERNOR MAY
 17 REDUCE THE RATES OF PAY, INCLUDING LONGEVITY PAY AND QUALIFICATION PAY
 18 UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION.

19 REVISOR'S NOTE: This section is new language derived without substantive
 20 change from former Art. 65, §§ 32 and 33.

21 In subsection (a)(1) and (2) of this section, the former references to "any
 22 part" of the organized militia are deleted as implicit in the reference to "the
 23 organized militia".

24 In subsection (a)(2) of this section, the former term "call" is deleted as
 25 implicit in the term "order".

26 In the introductory language of subsection (b) of this section, the
 27 introductory clause "[s]ubject to subsection (d) of this section" is added for
 28 clarity.

29 In subsections (b)(1) and (c) of this section, the references to an enlisted
 30 "individual" are substituted for the former references to an enlisted
 31 "person". *See* General Revisor's Note to title.

32 In subsection (b)(2) of this section, the reference to a "daily rate" is
 33 substituted for the former reference to a "per diem" for clarity.

34 In the introductory language of subsection (c) of this section, the reference
 35 to the "first" January 1 after qualification is added for clarity.

36 Defined term: "State active duty" § 13-101

1 13-705. EMPLOYMENT AND OTHER PROTECTIONS FOR MILITIA MEMBERS.

2 (A) SCOPE OF SECTION.

3 THE RIGHTS GRANTED TO MEMBERS OF THE NATIONAL GUARD BY THIS
4 SECTION SHALL BE IN ADDITION TO THE RIGHTS GRANTED TO THEM BY FEDERAL
5 LAW, INCLUDING THE SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940 AND THE
6 UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT.

7 (B) PROTECTIONS.

8 THE FOLLOWING PROVISIONS OF FEDERAL LAW SHALL BE ADOPTED AS STATE
9 LAW AND APPLIED TO MEMBERS OF THE NATIONAL GUARD:

10 (1) THE SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940 APPLIES
11 ONLY WHEN MEMBERS OF THE NATIONAL GUARD ARE ORDERED TO MILITARY DUTY
12 UNDER THIS TITLE OR TITLE 10 OR TITLE 32 OF THE UNITED STATES CODE FOR A
13 PERIOD OF 14 CONSECUTIVE DAYS OR LONGER; AND

14 (2) THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT
15 RIGHTS ACT APPLIES WHEN MEMBERS OF THE NATIONAL GUARD ARE ORDERED TO
16 MILITARY DUTY UNDER THIS TITLE OR TITLE 10 OR TITLE 32 OF THE UNITED STATES
17 CODE FOR ANY PERIOD OF TIME.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 65, § 32A.

20 In subsection (a) of this section, the former reference that the rights of this
21 section are "held distinct from, any and all" rights provided by federal law
22 is deleted as included in the statement that these rights are "in addition
23 to" the rights provided by federal law.

24 Also in subsection (a) of this section, the former reference to the
25 "Maryland" National Guard is deleted in light of the defined term
26 "National Guard". *See* § 13-101 of this title. Correspondingly, in the
27 introductory language of subsection (b) and (b)(1) and (2) of this section,
28 the former references to "Maryland Army" National Guard and the
29 "Maryland Air" National Guard are deleted.

30 In subsections (a) and (b)(1) of this section, the former references to the
31 Soldiers' and Sailors' Civil Relief Act of 1940 "(SSCRA), as amended,
32 Sections 501 through 593 of Title 50 of the United States Code" are deleted
33 in light of Art. 1, § 21 and for consistency with the other revised articles of
34 the Code. Similarly, in subsections (a) and (b)(2) of this section, the former
35 references to The Uniformed Services Employment and Reemployment
36 Rights Act "(USERRA), as amended, Sections 4301 through 4333 of Title
37 38 of the United States Code" is deleted.

38 In subsections (b)(1) and (2) of this section, the references to this "title" are
39 substituted for the references to this "article" to reflect that former Article

1 65 is revised in this title.

2 Defined term: "National Guard" § 13-101

3 13-706. RELIEF FROM DUTY IN MILITIA WHILE IN SERVICE OF UNITED STATES.

4 (A) IN GENERAL.

5 A MEMBER OF THE ORGANIZED MILITIA ORDERED INTO THE ACTIVE MILITARY
6 SERVICE OF THE UNITED STATES IS RELIEVED FROM DUTY IN THE ORGANIZED
7 MILITIA DURING ACTIVE MILITARY SERVICE OF THE UNITED STATES.

8 (B) RETURN TO SERVICE IN MILITIA.

9 (1) A MEMBER CONTINUES TO SERVE IN THE ORGANIZED MILITIA ON:

10 (I) THE TERMINATION OF ANY EMERGENCY FOR WHICH MEMBERS
11 OF THE ORGANIZED MILITIA HAVE BEEN ORDERED INTO THE ACTIVE MILITARY
12 SERVICE OF THE UNITED STATES; AND

13 (II) BEING RELIEVED FROM THE ACTIVE MILITARY SERVICE OF
14 THE UNITED STATES.

15 (2) (I) AN OFFICER CONTINUES TO SERVE IN THE ORGANIZED MILITIA
16 AS IF THE OFFICER'S SERVICE WAS UNINTERRUPTED.

17 (II) AN ENLISTED INDIVIDUAL CONTINUES TO SERVE IN THE
18 ORGANIZED MILITIA UNTIL THE DATES WHEN THE INDIVIDUAL'S ENLISTMENT,
19 ENTERED INTO BEFORE THE INDIVIDUAL'S ORDER TO ACTIVE MILITARY SERVICE OF
20 THE UNITED STATES, WOULD HAVE EXPIRED IF UNINTERRUPTED.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 65, § 41.

23 In subsections (a) and (b) of this section, the former references to "any
24 part" of the organized militia are deleted as implicit in the reference to "the
25 organized militia".

26 In subsection (b)(1)(i) and (2)(ii) of this section, references to the "military
27 service of the United States" are substituted for the former references to
28 "federal service" to conform to the terminology used throughout this
29 subtitle.

30 13-707. LEAVES OF ABSENCE FOR PUBLIC EMPLOYEES WHO ARE MEMBERS OF
31 MILITIA.

32 (A) INACTIVE DUTY TRAINING.

33 AN OFFICER OR EMPLOYEE OF THE STATE, A COUNTY, OR OTHER POLITICAL
34 SUBDIVISION OF THE STATE WHO IS A MEMBER OF THE ORGANIZED MILITIA IS

1 ENTITLED TO A LEAVE OF ABSENCE FROM DUTIES, WITHOUT LOSS OF PAY, TIME, OR
2 EFFICIENCY RATING:

3 (1) ON EACH DAY ENGAGED IN FIELD OR COAST DEFENSE OR OTHER
4 TRAINING ORDERED OR AUTHORIZED UNDER THIS TITLE; OR

5 (2) UNDER ANY LAW OF THE UNITED STATES WHILE ON INACTIVE DUTY
6 TRAINING, NOT TO EXCEED 15 DAYS ANNUALLY.

7 (B) STATE ACTIVE DUTY.

8 IN ADDITION TO THE 15-DAY PERIOD SPECIFIED IN SUBSECTION (A) OF THIS
9 SECTION, A MEMBER OF THE ORGANIZED MILITIA WHO IS ORDERED TO STATE
10 ACTIVE DUTY UNDER AUTHORITY OF THE GOVERNOR IS ENTITLED TO LEAVE OF
11 ABSENCE WITHOUT LOSS OF PAY, TIME, OR EFFICIENCY RATING WHILE ACTUALLY
12 SERVING UNDER THE STATE ACTIVE DUTY ORDERS.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 65, § 42.

15 In subsection (a)(1) of this section, the reference to this "title" is
16 substituted for the former reference to this "article" to reflect that former
17 Article 65 is revised in this title.

18 In subsection (b) of this section, the word "State" active duty is added to
19 conform with the defined term.

20 Defined terms: "County" § 1-101

21 "State active duty" § 13-101

22 13-708. CIVIL OR CRIMINAL LIABILITY FOR ACTS IN DISCHARGE OF DUTY.

23 (A) IN GENERAL.

24 A MEMBER OF THE ORGANIZED MILITIA ORDERED INTO STATE ACTIVE DUTY BY
25 PROPER AUTHORITY IS NOT LIABLE CIVILLY OR CRIMINALLY FOR AN ACT DONE
26 WHILE DISCHARGING A DUTY.

27 (B) SECURITY FOR PAYMENT AND RECOVERY OF COURT COSTS.

28 (1) THE COURT SHALL REQUIRE A PERSON TO FILE SECURITY FOR THE
29 PAYMENT OF COSTS THAT MAY BE AWARDED TO THE DEFENDANT WHEN THE
30 PERSON PROSECUTES OR BEGINS A SUIT OR PROCEEDING:

31 (I) AGAINST AN OFFICER OF THE ORGANIZED MILITIA FOR AN ACT
32 DONE BY THE OFFICER IN THE OFFICER'S OFFICIAL CAPACITY IN THE DISCHARGE OF
33 A DUTY UNDER THIS TITLE;

34 (II) AGAINST A PERSON ACTING UNDER THE AUTHORITY OR ORDER
35 OF AN OFFICER OF THE ORGANIZED MILITIA; OR

1 (III) BY VIRTUE OF A WARRANT THAT AN OFFICER OF THE MILITIA
2 LAWFULLY ISSUES.

3 (2) IN ALL CASES, THE DEFENDANT MAY MAKE A GENERAL DENIAL AND
4 GIVE EVIDENCE.

5 (3) IF THE CASE IS DISMISSED OR A VERDICT OR JUDGMENT IS
6 RENDERED AGAINST THE PLAINTIFF, THE DEFENDANT SHALL RECOVER TREBLE
7 COSTS.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 65, § 52.

10 In subsection (a) of this section, the former reference to members of the
11 organized militia not being liable for any act done "by them" while
12 discharging their duty is deleted as implicit in the reference to members of
13 the militia not being liable "for an act done while discharging a duty".

14 Also in subsection (a) of this section, the reference to "State active duty" is
15 substituted for the former reference to "active service of the State". *See*
16 General Revisor's Note to title.

17 In subsection (b)(2) of this section, the former reference to giving the
18 "special matter in" evidence is deleted as implicit in the reference to giving
19 "evidence".

20 In subsection (b)(3) of this section, the reference to the "case [being]
21 dismissed" is substituted for the former reference to the "plaintiff [being]
22 nonsuited" to conform with current terminology.

23 Defined terms: "Person" § 1-101

24 "State active duty" § 13-101

25 SUBTITLE 8. COURTS-MARTIAL.

26 13-801. SCOPE OF SUBTITLE.

27 THIS SUBTITLE APPLIES TO A COURT-MARTIAL OF THE ORGANIZED MILITIA
28 NOT IN THE SERVICE OF THE UNITED STATES.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from the first sentence of the second, third, and fourth paragraphs
31 of former Art. 65, § 43 and the first sentence of the third paragraph of § 44,
32 as they each related to the limitation of courts-martial to the organized
33 militia not in the service of the United States.

34 13-802. IN GENERAL.

35 (A) TYPES OF COURTS-MARTIAL.

1 THERE ARE THREE TYPES OF COURTS-MARTIAL:

2 (1) A GENERAL COURT-MARTIAL;

3 (2) A SPECIAL COURT-MARTIAL; AND

4 (3) A SUMMARY COURT-MARTIAL.

5 (B) JURISDICTION; POWERS; PROCEDURES; COMPOSITION.

6 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
7 COURT-MARTIAL SHALL BE CONSISTENT WITH A SIMILAR COURT PROVIDED FOR BY
8 THE LAWS AND REGULATIONS GOVERNING THE UNITED STATES ARMY OR AIR FORCE
9 REGARDING:

10 (I) JURISDICTION;

11 (II) POWERS, WITH THE EXCEPTION OF PUNISHMENT;

12 (III) PROCEDURES; AND

13 (IV) COMPOSITION.

14 (2) IN A CASE OF ABSENCE WITHOUT LEAVE, AN OFFENDER SHALL BE
15 REFERRED TO A SUMMARY COURT OFFICER FOR TRIAL WITHOUT FIRST BEING
16 REFERRED TO AN INVESTIGATING OFFICER.

17 (C) PERSONS SUBJECT TO A COURT-MARTIAL.

18 (1) A MEMBER OF A FORCE ORGANIZED UNDER THIS TITLE IS IN THE
19 ACTUAL SERVICE OF THE STATE AND IS SUBJECT TO ALL MILITARY LAWS, ORDERS,
20 AND REGULATIONS.

21 (2) A VIOLATION OF A MILITARY LAW, ORDER, OR REGULATION IS AN
22 OFFENSE AGAINST THE STATE AND IS PUNISHABLE AS PROVIDED IN THIS SUBTITLE.

23 (D) JURISDICTION OF A COURT-MARTIAL.

24 (1) THE JURISDICTION OF A COURT-MARTIAL ESTABLISHED UNDER
25 THIS SUBTITLE IS PRESUMED TO BE CORRECT.

26 (2) A PERSON ALLEGING LACK OF JURISDICTION IN AN ACTION OR
27 PROCEEDING HAS THE BURDEN OF PROVING LACK OF JURISDICTION.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from the first paragraph of former Art. 65, § 43, and from the
30 introductory paragraph of former Art. 65, § 47.

31 In subsections (a) and (b)(1) of this section, the former references to
32 courts-martial and of "the organized militia" are deleted in light of §
33 13-801 of this subtitle.

1 %In the introductory language of subsection (b)(1) of this section, the phrase
2 "shall be consistent with" is substituted for the former phrases "shall
3 be ... like", "shall ... possess like", and "shall follow" for clarity.

4 Also in the introductory language of subsection (b)(1) of this section, the
5 former reference to the "proceedings" of courts-martial is deleted as
6 included in the reference to a "court-martial".

7 Also in the introductory language of subsection (b)(1) of this section, the
8 reference to "Air Force" is added to conform to current practice and law
9 relating to the Maryland Air National Guard. *See* General Revisor's Note
10 to title.

11 In subsection (b)(1)(i) of this section, the reference to "jurisdiction" is
12 substituted for the former phrase, "cognizance of the same subjects", to
13 provide clarity through the use of more modern terminology.

14 In subsection (b)(1)(iii) of this section, the former reference to "forms and
15 modes" of procedure is deleted as included in the reference to "procedures".

16 In subsection (b)(1)(iv) of this section, the reference to "composition" is
17 substituted for the former phrase "constituted like" for clarity.

18 In subsection (b)(2) of this section, the phrase "first being referred" is
19 substituted for the former phrase "previous reference" for clarity.

20 In subsection (c)(1) of this section, the reference to a "member of a force" is
21 substituted for the former reference to "[t]he force" for clarity.

22 Also in subsection (c)(1) of this section, the reference to this "title" is
23 substituted for the former reference to this "article" to reflect that former
24 Article 65 is revised in this title. Correspondingly, in subsection (c)(2) and
25 (d)(1) of this section, the references to this "subtitle" are substituted for the
26 former references to this "article" to reflect that the provisions of former
27 Article 65 concerning courts-martial and penalties are revised in this
28 subtitle, *see* § 13-812 of this subtitle.

29 Also in subsection (c)(1) of this section, the former phrase, "prescribed for
30 the government thereof", is deleted as implicit in the reference to "laws,
31 orders, and regulations".

32 In subsection (c)(2) of this section, the reference to a "violation of a military
33 law" is substituted for the former reference to "military offenses" for
34 clarity.

35 Also in subsection (c)(2) of this section, the former reference to offenses
36 against the "general police regulations" of the State is deleted as included
37 in the reference to an offense against "the State".

38 Also in subsection (c)(2) of this section, the former reference to an offense

- 1 punishable "by fine or imprisonment" is deleted as surplusage.
- 2 In subsection (d)(1) of this section, the reference to the presumption
3 "be[ing] correct" is added for clarity.
- 4 Also in subsection (d)(1) of this section, the reference to a "court-martial"
5 is substituted for the former reference to "said courts or boards" for clarity.
- 6 In subsection (d)(2) of this section, the reference to a person "alleging lack
7 of jurisdiction" is substituted for the former reference to a person "seeking
8 to oust such courts or boards of jurisdiction" for clarity.
- 9 Defined term: "Person" § 1-101

10 13-803. OFFENSES SUBJECT TO A COURT-MARTIAL.

11 (A) COMMISSIONED OFFICERS.

12 (1) THIS SUBSECTION DOES NOT APPLY TO A COMMISSIONED OFFICER
13 ON DUTY DURING A WAR, INSURRECTION, INVASION, OR PUBLIC DANGER OR ON
14 DUTY TO AID CIVIL AUTHORITIES ON ACCOUNT OF ANY BREACH OF PEACE, TUMULT,
15 RIOT, RESISTANCE TO POWER OF THE STATE, OR IMMINENT DANGER OF ANY OF
16 THESE OR ANY CASES NOT OTHERWISE COVERED.

17 (2) A COMMISSIONED OFFICER MAY BE TRIED BY A COURT-MARTIAL
18 FOR:

19 (I) NONATTENDANCE WITHOUT EXCUSE AT ANY DRILL, PARADE,
20 ENCAMPMENT, OR OTHER DUTY ORDERED BY COMPETENT AUTHORITY;

21 (II) UNMILITARY- OR UNOFFICER-LIKE CONDUCT;

22 (III) DRUNKENNESS ON DUTY;

23 (IV) NEGLIGENCE OF DUTY;

24 (V) DISOBEDIENCE OF ORDERS OR AN ACT THAT IS CONTRARY TO
25 THIS TITLE OR TO THE ORDERS AND REGULATIONS THAT GOVERN THE MILITIA;

26 (VI) REFUSING TO GRANT A DISCHARGE TO AN ENLISTED
27 INDIVIDUAL ENTITLED TO A DISCHARGE;

28 (VII) OPPRESSION OR INJURY OF AN INDIVIDUAL UNDER THE
29 OFFICER'S COMMAND;

30 (VIII) CONSPIRACY OR ATTEMPT TO BREAK, RESIST, OR EVADE THE
31 LAWS OR LAWFUL ORDERS GIVEN TO AN INDIVIDUAL OR ADVISING AN INDIVIDUAL
32 TO CONSPIRE OR ATTEMPT TO BREAK, RESIST, OR EVADE A LAW OR LAWFUL ORDER;

33 (IX) INSULT OR DISRESPECT TO A SUPERIOR OFFICER IN THE LINE
34 OF MILITARY DUTY;

1 (X) PRESUMING TO EXERCISE THE OFFICER'S COMMAND WHILE
2 UNDER ARREST OR SUSPENSION;

3 (XI) NEGLIGENCE OR REFUSAL AS COMMANDING OFFICER TO ORDER
4 OUT THE TROOPS UNDER THE OFFICER'S COMMAND WHEN REQUIRED BY LAW OR
5 LAWFULLY ORDERED BY A SUPERIOR OFFICER;

6 (XII) NEGLIGENCE OR REFUSAL, WHEN LAWFULLY ORDERED, TO MAKE
7 A DRAFT OR DETACHMENT;

8 (XIII) RECEIVING A FEE OR GRATUITY FOR A CERTIFICATE;

9 (XIV) NEGLIGENCE, WHEN DETAILED TO DRILL OR INSTRUCT A
10 COMMAND, TO MAKE COMPLAINT FOR NEGLIGENCE OR VIOLATION OF DUTY, AS
11 PROVIDED BY LAW, OR FOR ANY OTHER NEGLIGENCE FOR WHICH A COMMANDING
12 OFFICER WOULD BE LIABLE;

13 (XV) REFUSAL OR NEGLIGENCE TO OBEY A PRECEPT OR ORDER TO CALL
14 OUT THE NATIONAL GUARD OR MILITIA, OR REFUSAL OR NEGLIGENCE TO OBEY AN
15 ORDER ARISING FROM AN ORDER TO CALL OUT THE NATIONAL GUARD OR MILITIA,
16 OR FOR ADVISING AN OFFICER OR ENLISTED INDIVIDUAL TO REFUSE OR NEGLIGENCE
17 TO OBEY AN ORDER TO CALL OUT THE NATIONAL GUARD OR MILITIA;

18 (XVI) MAKING A FALSE CERTIFICATE, ACCOUNT, OR MUSTER; OR

19 (XVII) CONDUCT UNBECOMING AN OFFICER OR CONDUCT
20 PREJUDICIAL TO GOOD ORDER AND MILITARY DISCIPLINE.

21 (B) ENLISTED INDIVIDUALS.

22 AN ENLISTED INDIVIDUAL MAY BE TRIED BY A COURT-MARTIAL FOR:

23 (1) DISOBEDIENCE OF ORDERS;

24 (2) DISRESPECT TO SUPERIOR;

25 (3) MUTINY;

26 (4) DESERTION;

27 (5) NEGLIGENCE OF DUTY;

28 (6) DRUNKENNESS ON DUTY;

29 (7) CONDUCT PREJUDICIAL TO GOOD ORDER AND MILITARY DISCIPLINE;

30 (8) AN ACT CONTRARY TO THIS TITLE OR TO ORDERS AND REGULATIONS
31 THAT GOVERN THE MILITIA;

1 (9) WITHOUT PROPER EXCUSE, ABSENCE FROM OR TARDINESS IN
2 ATTENDING A DRILL, PARADE, ENCAMPMENT, OR OTHER DUTY ORDERED BY
3 COMPETENT AUTHORITY;

4 (10) NEGLECTING TO TAKE PROPER CARE OF OR WILLFULLY DAMAGING
5 OR DESTROYING ARMS, UNIFORMS, EQUIPMENT, OR MILITARY PROPERTY; OR

6 (11) FRAUDULENT ENLISTMENT.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 65, § 47(a) and (b).

9 Throughout this section, the term enlisted "individual" is substituted for
10 the former term enlisted "men". *See* General Revisor's Note to title.

11 In subsection (a)(1) of this section, the phrase "[t]his subsection does not
12 apply to" is substituted for the former phrase "[e]xcept when" to conform
13 with other similar provisions of the Code and to clarify the circumstances
14 under which the commissioned officers may not be tried for specified
15 offenses.

16 In subsection (a)(2)(i) of this section, the former reference to "meeting for
17 instruction" is deleted as included in the reference to "duty".

18 In subsections (a)(2)(v) and (b)(8) of this section, the references to "this
19 title" are substituted for the former references to "the militia law of the
20 State" to reflect that the militia law of the State is revised in this title.

21 Also in subsections (a)(2)(v) and (b)(8) of this section, the references to
22 regulations that "govern" the militia are substituted for former references
23 to regulations "prescribed for the government of or issued for the
24 government of" the militia for brevity.

25 In subsection (a)(2)(vi) of this section, the reference to an individual
26 "entitled to a discharge" is substituted for the former reference to an
27 enlisted man "when entitled to same" for clarity.

28 In subsection (a)(2)(viii) of this section, the references to an "individual"
29 are substituted for the former references to a "person". *See* General
30 Revisor's Note to title.

31 In subsection (a)(2)(xv) of this section, the reference to an "order arising
32 from an order to call out the National Guard or militia" is substituted for
33 the former reference to an "order issued in obedience thereto" for clarity.

34 Also in subsection (a)(2)(xv) of this section, the reference to "refus[ing] or
35 neglect[ing] to obey an order to call out the National Guard or militia" is
36 substituted for the former phrase to "do[ing] the like" for clarity.

37 In subsection (a)(2)(xvi) of this section, a comma is added between the

1 terms "certificate" and "account" as these are two separate items.

2 Also in subsection (a)(2)(xvi) of this section, the former term "parade
3 return" is deleted as included in the reference to a "muster". Similarly, the
4 former reference to a "meeting or instruction" is deleted as included in the
5 reference to "other duty".

6 In subsection (a)(2)(xvii) of this section, the former reference to conduct
7 unbecoming a "gentleman" is deleted as included in the reference to
8 conduct unbecoming "an officer".

9 In subsection (b)(10) of this section, the term "damaging" is substituted for
10 the former term "injuring" for clarity.

11 Defined term: "National Guard" § 13-101

12 13-804. POWER OF PRESIDING MILITARY JUDGE OR OFFICER.

13 THE MILITARY JUDGE OR OFFICER PRESIDING OVER A COURT-MARTIAL MAY:

14 (1) ISSUE A WARRANT TO ARREST AND BRING BEFORE THE COURT FOR
15 TRIAL AN ACCUSED INDIVIDUAL WHO HAS RECEIVED A COPY OF THE CHARGE AND
16 AN ORDER TO APPEAR AND WHO FAILS TO APPEAR BEFORE THE COURT-MARTIAL;

17 (2) ISSUE A SUBPOENA TO ATTEND, GIVE TESTIMONY, OR PRODUCE
18 DOCUMENTS OR OTHER TANGIBLE THINGS;

19 (3) ENFORCE BY ATTACHMENT THE ATTENDANCE OF WITNESSES AND
20 THE PRODUCTION OF DOCUMENTS AND OTHER TANGIBLE THINGS; AND

21 (4) IMPOSE A SENTENCE FOR A REFUSAL TO BE SWORN OR TO ANSWER
22 AS PROVIDED IN ACTIONS BEFORE CIVIL COURTS.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from the third paragraph of former Art. 65, § 44, as it related to the
25 authority of an individual presiding over a court-martial.

26 In the introductory language of this section, the reference to the "officer"
27 presiding over a court-martial is substituted for the former reference to
28 "presidents of courts-martial and summary court officers" for brevity.

29 Also in the introductory language of this section, the reference to
30 "presiding over a court-martial" is substituted for the former reference to
31 "sit[ting] on a military court" for clarity.

32 In item (1) of this section, the reference to an "individual" is substituted for
33 the former reference to "persons". *See* General Revisor's Note to title.

34 Also in item (1) of this section, the former reference to an order "in writing
35 from the convening authority" is deleted as surplusage.

1 %In item (2) of this section, the reference to a subpoena "to attend, give
2 testimony, or produce documents or other tangible things" is substituted
3 for the former reference to a subpoena and "subpoena duces tecum" to
4 conform with current terminology regarding subpoenas. *See* Md. Rule
5 2-510.

6 In item (3) of this section, the reference "documents and other tangible
7 things" is substituted for the former reference "books and papers" to
8 conform with the court's subpoena power in item (2) of this section.

9 The balance of the third paragraph of former Art. 65, § 44 is revised in §
10 13-801 of this subtitle.

11 13-805. SERVICE OF PROCESS; EXECUTION OF SENTENCE.

12 (A) DUTY OF INDIVIDUALS.

13 (1) ANY SHERIFF, DEPUTY SHERIFF, OR POLICE OFFICER, OR A MEMBER
14 OF THE ORGANIZED MILITIA APPOINTED BY THE COURT-MARTIAL SHALL SERVE
15 PROCESS AND EXECUTE A SENTENCE OF A COURT-MARTIAL OF THE STATE.

16 (2) THE INDIVIDUAL WHO SERVES PROCESS SHALL MAKE A RETURN OF
17 SERVICE TO THE OFFICER WHO ISSUED SERVICE.

18 (B) COSTS.

19 (1) AN INDIVIDUAL MAY NOT CHARGE A FEE IN ADVANCE FOR SERVICE
20 OF PROCESS OR EXECUTION OF A SENTENCE.

21 (2) COSTS OF SERVICE OF PROCESS OR EXECUTION OF A SENTENCE
22 SHALL BE PAID FROM FUNDS APPROPRIATED TO THE DEPARTMENT.

23 (C) SERVICE OF A SUMMONS.

24 AN INDIVIDUAL AUTHORIZED UNDER SUBSECTION (A) OF THIS SECTION SHALL
25 SERVE A SUMMONS TO APPEAR BEFORE A COURT-MARTIAL BY:

26 (1) DELIVERING A COPY OF THE SUMMONS TO THE OFFENDER;

27 (2) READING A COPY OF THE SUMMONS TO THE OFFENDER;

28 (3) LEAVING A COPY OF THE SUMMONS AT THE OFFENDER'S LAST
29 KNOWN RESIDENCE OR PLACE OF BUSINESS; OR

30 (4) MAILING A COPY OF THE SUMMONS TO THE OFFENDER'S LAST
31 KNOWN RESIDENCE OR BUSINESS ADDRESS.

32 (D) RETURN OF SUMMONS.

1 (1) IF REQUIRED, THE INDIVIDUAL WHO SERVES A SUMMONS SHALL
2 MAKE A RETURN OF THE SUMMONS THAT CONTAINS THE TIME, MANNER, AND PLACE
3 OF SERVICE.

4 (2) THE RETURN MAY BE VERIFIED UNDER OATH BEFORE A
5 COMMISSIONED OFFICER.

6 (3) A RETURN VERIFIED UNDER OATH UNDER PARAGRAPH (2) OF THIS
7 SUBSECTION SHALL BE ADMITTED INTO EVIDENCE AT THE TRIAL OF THE
8 INDIVIDUAL SUMMONED WITHOUT THE PRESENCE OR TESTIMONY OF THE
9 INDIVIDUAL SERVING THE SUMMONS.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from the first two sentences of the fourth paragraph of former Art.
12 65, § 44 and the second paragraph of § 48.

13 In subsection (a)(2) of this section, the phrase "officer who issued service"
14 is substituted for the former phrase "officer issuing or imposing the same"
15 for clarity.

16 In subsection (b)(1) of this section, the prohibition against "charg[ing] a fee
17 in advance" for service of process or execution of a sentence is substituted
18 for the former requirement that the service or execution "be made by such
19 officer without tender or advancement of fee therefor," for clarity.

20 In the introductory language of subsection (c) of this section and in
21 subsection (d)(1) and (3) of this section, the references to an "individual
22 authorized under subsection (a) of this section" and an "individual" are
23 substituted for the former references to an "officer or enlisted man"
24 because, under subsection (a) of this section, individuals other than
25 officers or enlisted individuals may serve process for courts-martial.

26 Throughout subsection (c) of this section, the references to the "offender"
27 and "offender's" are substituted for the former references to the
28 "delinquent", "him", and "his" for consistency.

29 In subsection (c)(1) of this section, the former reference to "leaving" a copy
30 of the summons with the offender is deleted as included in the reference to
31 "delivering" a copy of the summons.

32 In subsection (c)(3) and (4) of this section, the reference to the "last known
33 residence" is substituted for the former phrase "last known place of abode"
34 to conform with other similar provisions of the Code.

35 In subsection (d)(3) of this section, the reference to being "admitted into
36 evidence" is substituted for the former reference to being "as good
37 evidence" for clarity.

38 Also in subsection (d)(3) of this section, the reference to the admission into
39 evidence "without the presence or testimony" of an individual is

1 substituted for the former reference to evidence "as if [the individual] had
2 testified to the same before the court-martial" for brevity.

3 {2hang}Defined term: "Department" § 13-101

4 13-806. GENERAL COURT-MARTIAL.

5 A GENERAL COURT-MARTIAL MAY BE CONVENED BY AN ORDER OF THE
6 GOVERNOR.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from the second paragraph of former Art. 65, § 43, as it related to
9 the convening of a general court-martial.

10 The balance of the second paragraph of former Art. 65, § 43 is revised in §§
11 13-801 and 13-812(a) of this subtitle.

12 13-807. SPECIAL COURT-MARTIAL.

13 (A) IN GENERAL.

14 THE COMMANDING OFFICER OF A GARRISON, FORT, POST, CAMP OR OTHER
15 PLACE, BRIGADE, REGIMENT, DETACHED BATTALION, OR OTHER DETACHED
16 COMMAND OR A SUPERIOR AUTHORITY MAY APPOINT FOR THAT COMMAND A
17 SPECIAL COURT-MARTIAL.

18 (B) POWERS.

19 EXCEPT FOR A COMMISSIONED OFFICER, A SPECIAL COURT-MARTIAL MAY TRY
20 AN INDIVIDUAL SUBJECT TO MILITARY LAW, FOR ANY CRIME OR OFFENSE MADE
21 PUNISHABLE UNDER THE MILITARY LAWS OF THE UNITED STATES.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from the third paragraph of former Art. 65, § 43, as it related to the
24 convening of a special court-martial.

25 In subsection (a) of this section, the former reference to the appointment of
26 a special court-martial "when by the latter deemed desirable" is deleted as
27 surplusage.

28 The balance of the third paragraph of former Art. 65, § 43 is revised in §§
29 13-801 and 13-812(b) of this subtitle.

30 13-808. SUMMARY COURT-MARTIAL.

31 (A) IN GENERAL.

32 (1) THE COMMANDING OFFICER OF A GARRISON, FORT, POST OR OTHER
33 PLACE, REGIMENT OR CORPS, DETACHED BATTALION, COMPANY, OR OTHER
34 DETACHMENT MAY APPOINT FOR THAT COMMAND OR PLACE A SUMMARY
35 COURT-MARTIAL.

1 (2) A SUMMARY COURT-MARTIAL SHALL CONSIST OF ONE OFFICER.

2 (B) POWERS.

3 A SUMMARY COURT OFFICER MAY:

4 (1) TRY AN ENLISTED INDIVIDUAL OF THE SUMMARY COURT-MARTIAL'S
5 PLACE OR COMMAND FOR A BREACH OF DISCIPLINE OR VIOLATION OF LAW
6 GOVERNING THE PLACE OR COMMAND; AND

7 (2) ADMINISTER AN OATH.

8 (C) PROCEDURES.

9 (1) THE PROCEEDINGS OF A SUMMARY COURT-MARTIAL SHALL BE
10 INFORMAL.

11 (2) THE MINUTES OF A SUMMARY COURT-MARTIAL SHALL BE THE SAME
12 AS PRESCRIBED FOR THE MINUTES FOR A SUMMARY COURT OF THE UNITED STATES
13 ARMY OR AIR FORCE.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from the fourth paragraph of former Art. 65, § 43, as it related to
16 the convening of a summary court-martial and the powers and procedures
17 for a summary court-martial.

18 In subsection (b)(1) of this section, the term enlisted "individual" is
19 substituted for the former term enlisted "men". *See* General Revisor's Note
20 to title.

21 In subsection (c)(2) of this section, the reference to the "Air Force" is added
22 to conform to current practice and law relating to the Maryland Air
23 National Guard. *See* General Revisor's Note to title.

24 The balance of the fourth paragraph of former Art. 65, § 43 is revised in §§
25 13-801 and 13-812(c) of this subtitle.

26 13-809. IMMUNITY FROM LIABILITY.

27 AN INDIVIDUAL HAS THE IMMUNITY FROM LIABILITY DESCRIBED IN § 5-513 OF
28 THE COURTS ARTICLE IF THE INDIVIDUAL IS:

29 (1) A MEMBER OF A COURT-MARTIAL; OR

30 (2) AN OFFICER OR OTHER INDIVIDUAL:

31 (I) ACTING UNDER THE COURT'S AUTHORITY; OR

32 (II) REVIEWING THE COURT'S PROCEEDINGS BECAUSE OF THE
33 APPROVAL, IMPOSITION, OR EXECUTION OF A SENTENCE, THE IMPOSITION OR

1 COLLECTION OF A FINE OR PENALTY, OR THE EXECUTION OF A WARRANT, WRIT,
2 EXECUTION, PROCESS, OR MANDATE OF A COURT-MARTIAL.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 65, § 46.

5 Throughout this section, the term "court-martial" is substituted for the
6 former term "military court" to conform with the terminology used in this
7 subtitle.

8 Also throughout this section, the references to an "individual" are
9 substituted for the former references to a "person". *See* General Revisor's
10 Note to title.

11 13-810. CONVEYING PRISONER.

12 THE ACTUAL NECESSARY EXPENSE OF CONVEYING A PRISONER WHEN THE
13 CONVEYANCE IS AUTHORIZED AND DIRECTED BY THE ADJUTANT GENERAL SHALL
14 BE PAID FROM FUNDS APPROPRIATED TO THE DEPARTMENT ON A WARRANT
15 APPROVED BY THE ADJUTANT GENERAL.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from the third sentence of the fourth paragraph of former Art. 65,
18 § 44.

19 Defined term: "Department" § 13-101

20 13-811. EXCUSE.

21 (A) ABSENCE FROM ASSEMBLIES.

22 NO EXCUSE IS VALID FOR ABSENCE FROM AN ASSEMBLY EXCEPT:

23 (1) GOOD FAITH ABSENCE FROM THE PLACE WHERE THE ASSEMBLY IS
24 ORDERED;

25 (2) ILLNESS OF THE INDIVIDUAL THAT PREVENTS THE INDIVIDUAL'S
26 ATTENTION TO ORDINARY PURSUITS;

27 (3) SICKNESS IN THE INDIVIDUAL'S FAMILY THAT REQUIRES THE
28 INDIVIDUAL'S PERSONAL CARE AND PRESENCE; OR

29 (4) ANY OTHER REASON THAT THE COURT FINDS SATISFACTORY.

30 (B) ABSENCE FROM ANNUAL INSPECTION.

31 NO EXCUSE IS VALID FOR ABSENCE FROM AN ANNUAL INSPECTION EXCEPT:

32 (1) ILLNESS OF THE INDIVIDUAL THAT WOULD PREVENT ATTENDANCE;
33 OR

1 (2) ILLNESS IN THE INDIVIDUAL'S FAMILY THAT REQUIRES THE
2 INDIVIDUAL'S PERSONAL CARE AND PRESENCE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from the third and fourth sentences of the first paragraph of
5 former Art. 65, § 48.

6 Throughout this section, the term "individual" is substituted for the former
7 term "member" for consistency with the rest of the section.

8 In subsection (a)(1) of this section, the term "good faith" is substituted for
9 the former term "bona fide" for clarity.

10 Also in subsection (a)(1) of this section, the former reference to the "city" is
11 deleted as included in the reference to the "place".

12 In subsection (a)(4) of this section, the reference to any other reason "that
13 the court finds satisfactory" is substituted for the former reference to the
14 provision "that the court may, in its discretion, excuse his absence for any
15 other reason satisfactory to it" for brevity.

16 13-812. PENALTIES.

17 (A) GENERAL COURT-MARTIAL.

18 A GENERAL COURT-MARTIAL MAY IMPOSE ONE OR MORE OF THE FOLLOWING
19 PENALTIES:

20 (1) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A FINE
21 NOT EXCEEDING \$200;

22 (2) FORFEITURE OF PAY AND ALLOWANCES;

23 (3) REPRIMAND;

24 (4) DISMISSAL OR DISHONORABLE DISCHARGE FROM THE SERVICE;

25 (5) REDUCTION OF NONCOMMISSIONED OFFICERS TO THE RANKS; OR

26 (6) CONFINEMENT, IN LIEU OF A FINE, NOT TO EXCEED 1 DAY FOR EACH
27 DOLLAR OF FINE AUTHORIZED.

28 (B) SPECIAL COURT-MARTIAL.

29 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
30 SPECIAL COURT-MARTIAL MAY IMPOSE THE PENALTIES LISTED IN SUBSECTION (A)
31 OF THIS SECTION.

32 (2) A SPECIAL COURT-MARTIAL MAY NOT IMPOSE A FINE EXCEEDING
33 \$100.

1 (C) SUMMARY COURT-MARTIAL.

2 A SUMMARY COURT-MARTIAL MAY IMPOSE THE FOLLOWING PENALTIES:

3 (1) A FINE NOT EXCEEDING \$25 FOR A SINGLE OFFENSE;

4 (2) REDUCTION OF NONCOMMISSIONED OFFICER TO THE RANKS;

5 (3) FORFEITURE OF PAY AND ALLOWANCES; OR

6 (4) CONFINEMENT, IN LIEU OF A FINE, NOT TO EXCEED 1 DAY FOR EACH
7 DOLLAR OF FINE AUTHORIZED.

8 (D) ENLISTED INDIVIDUALS.

9 AN ENLISTED INDIVIDUAL CONVICTED OF AN OFFENSE LISTED IN § 13-803 OF
10 THIS SUBTITLE IS SUBJECT TO A FINE NOT EXCEEDING \$100.

11 (E) DISMISSAL OR DISHONORABLE DISCHARGE.

12 A SENTENCE OF DISMISSAL FROM THE SERVICE OR DISHONORABLE
13 DISCHARGE IMPOSED BY A COURT-MARTIAL MAY NOT BE EXECUTED UNTIL
14 APPROVED BY THE GOVERNOR.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from the fourth, sixth, and seventh sentences of former Art. 65, §
17 43, the first and second sentences of § 44, the first and second sentences of
18 § 48, as each of those sentences related to the penalties that may be
19 imposed by court-martial.

20 In the introductory language of subsections (a) and (c) of this section, the
21 former references to courts-martial "of the organized militia" are deleted
22 in light of § 13-801 of this subtitle.

23 In the introductory language of subsection (a) of this section, the reference
24 to "[a] general court-martial ... impos[ing] one or more of the following
25 penalties" is substituted for the former reference to the authority to
26 combine "any two or more of such punishments ... in the sentences
27 imposed by such courts" for brevity.

28 In subsection (a)(1) of this section, the phrase "except as provided in
29 subsection (d) of this section" is added to provide a cross-reference to a
30 limitation on a fine for an enlisted individual.

31 In subsections (a)(6) and (c)(4) of this section, the former references to fines
32 "authorized to be imposed" are deleted as surplusage.

33 In subsection (b)(1) of this section, the reference to the authority to "impose
34 the penalties listed in subsection (a) of this section" is substituted for the
35 former reference to having the "same powers of punishment as do general
36 courts-martial" for clarity.

1 %In subsection (c) of this section, the former phrase "when satisfied of the
2 guilt of such soldier" is deleted as unnecessary and implicit in the power to
3 impose a penalty.

4 In subsection (d) of this section, the term enlisted "individual" is
5 substituted for the former phrase enlisted "man of the organized militia".
6 *See* General Revisor's Note to title.

7 13-813. SENTENCING.

8 (A) IMPOSITION OF SENTENCE.

9 (1) AFTER IMPOSING A SENTENCE OF IMPRISONMENT AND ON
10 APPROVAL OF THE FINDINGS AND SENTENCE OF THE COURT BY THE OFFICER
11 APPOINTING THE COURT, THE INDIVIDUAL PRESIDING OVER A COURT-MARTIAL
12 SHALL MAKE OUT AND SIGN A CERTIFICATE ENTITLING THE CASE THAT INCLUDES:

13 (I) THE NAME OF THE ACCUSED;

14 (II) THE DATE AND PLACE OF TRIAL;

15 (III) THE DATE OF APPROVAL OF THE SENTENCE; AND

16 (IV) THE MANNER, PLACE, AND TERM OF IMPRISONMENT.

17 (2) THE INDIVIDUAL PRESIDING OVER THE COURT-MARTIAL SHALL
18 DELIVER THE CERTIFICATE ENTITLING THE CASE TO THE SHERIFF OF THE COUNTY
19 WHERE THE SENTENCE IS TO BE EXECUTED OR THE COMMISSIONER OF
20 CORRECTION.

21 (B) EXECUTION OF SENTENCE.

22 A SHERIFF OR THE COMMISSIONER OF CORRECTION WHO RECEIVES A
23 CERTIFICATE UNDER SUBSECTION (A)(2) OF THIS SECTION SHALL CARRY OUT THE
24 EXECUTION OF THE SPECIFIED SENTENCE IN THE MANNER PROVIDED FOR
25 COMMITMENTS TO SERVICE OF TERMS OF IMPRISONMENT IN CRIMINAL CASES IN
26 COURTS OF THE STATE.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from the fifth paragraph of former Art. 65, § 44.

29 In subsection (a)(1) of this section, the clause "[a]fter imposing a sentence
30 of imprisonment" is substituted for the former clause "[w]hen any sentence
31 to imprisonment shall be imposed by any military court of this State" for
32 brevity.

33 Also in subsection (a)(1) of this section, the phrase "person presiding over a
34 court-martial" is substituted for the former phrase "military judge
35 whenever one sits on such court, and otherwise the president of the court
36 or summary court officer" for brevity.

1 %In subsections (a)(2) and (b) of this section, the references to the
2 "Commissioner of Correction" are added to conform with current law
3 regarding sentences of imprisonment. *See* CS §§ 9-104 and 9-105.

4 In subsection (b) of this section, the reference to a sheriff "who receives a
5 certificate under subsection (a)(2) of this section" is substituted for the
6 former reference to "such" sheriff for clarity.

7 Also in subsection (b) of this section, the reference to the "specified"
8 sentence is substituted for the former term "such" sentence for clarity.

9 Also in subsection (b) of this section, the former reference to the execution
10 of a sentence in the manner "prescribed by law" is deleted as unnecessary
11 in light of the reference to the execution of a sentence in the manner
12 provided "in criminal cases in courts in the State".

13 Defined term: "County" § 1-101

14 13-814. FINES.

15 (A) IN GENERAL.

16 ON THE IMPOSITION OF A FINE BY A COURT-MARTIAL AND ON THE APPROVAL
17 OF ITS FINDINGS BY THE OFFICER WHO APPOINTED THE COURT-MARTIAL, THE FINE
18 IS PAYABLE AT ONCE.

19 (B) COLLECTION OF UNPAID FINES.

20 (1) IF AN OFFICER OR ENLISTED INDIVIDUAL DOES NOT PAY A FINE
21 WITHIN 10 DAYS AFTER NOTIFICATION OF THE IMPOSITION OF THE FINE, THE FINE
22 MAY BE COLLECTED IN THE NAME OF THE STATE IN THE DISTRICT COURT SITTING
23 IN THE COUNTY WHERE THE OFFICER OR ENLISTED INDIVIDUAL RESIDES IN THE
24 SAME MANNER AS OTHER FINES FOR CRIMES UNDER STATE LAW.

25 (2) THE DISTRICT COURT SHALL REQUIRE THAT A FINE IMPOSED
26 UNDER THIS SUBTITLE BE PAID ALONG WITH COURT COSTS IF:

27 (I) THE COURT RECEIVES A CERTIFICATE IN WRITING FROM THE
28 PROPER COMMANDING OFFICER SETTING FORTH THE FINDINGS OF THE
29 COURT-MARTIAL AND THE COMMANDING OFFICER'S APPROVAL OF THOSE
30 FINDINGS; AND

31 (II) THE OFFENDER IS ARRESTED AND BROUGHT BEFORE THE
32 COURT.

33 (C) PENALTY FOR FAILURE TO PAY FINES.

34 IF AN OFFENDER DEFAULTS ON PAYMENT OF THE FINE AND COSTS ORDERED
35 UNDER SUBSECTION (B)(2) OF THIS SECTION, THE DISTRICT COURT MAY, UNDER
36 ARTICLE 38, § 4 OF THE CODE, COMMIT THE OFFENDER TO THE LOCAL

1 CORRECTIONAL FACILITY OF THE MUNICIPAL CORPORATION OR COUNTY WHERE
2 THE OFFENDER RESIDES.

3 (D) FINES PAID TO FINANCE OFFICER.

4 (1) A FINE COLLECTED UNDER SUBSECTION (C) OF THIS SECTION SHALL
5 BE PAID TO THE FINANCE OFFICER OF THE ORGANIZATION OF WHICH THE
6 OFFENDER WAS A MEMBER.

7 (2) THE FINANCE OFFICER SHALL APPLY ANY FINES RECEIVED TO THE
8 MILITARY FUNDS OF THE ORGANIZATION.

9 (E) REMISSION OF FINES.

10 THE GOVERNOR MAY REMIT AS A WHOLE OR IN PART A FINE IMPOSED BY A
11 COURT-MARTIAL.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 65, § 45 and former Art. 41, § 2-403.

14 In subsection (a) of this section, the reference to the "imposition of a fine by
15 a court-martial" is substituted for the former reference to the "finding of
16 any such court-martial imposing any of said fines" for brevity.

17 Also in subsection (a) of this section, the reference to the fine being
18 "payable at once" is substituted for the former reference to the fine "be[ing]
19 and becom[ing] at once payable" for brevity.

20 In subsection (b)(1) of this section, the former reference to an officer or
21 enlisted individual "upon whom a fine has been imposed in accordance
22 with the provisions of this section" is deleted as implicit in the reference to
23 the notification of the imposition of the fine.

24 Also in subsection (b)(1) of this section, the reference to an individual who
25 "does not" pay is substituted for the former reference to an individual who
26 shall "fail, refuse, or neglect" to pay for brevity.

27 Also in subsection (b)(1) of this section, the term enlisted "individual" is
28 substituted for the former term enlisted "man". *See* General Revisor's Note
29 to title.

30 Also in subsection (b)(1) of this section, the reference to the "officer or
31 enlisted individual" is substituted for the former reference to the
32 "delinquent" for consistency within the subsection.

33 Also in subsection (b)(1) of this section, the former reference to a "city" is
34 deleted because the only city authorized to have a District Court,
35 Baltimore City, is included in the definition of "county". *See* § 1-101 of this
36 article.

1 %Also in subsection (b)(1) of this section, the reference to allowing a fine to
2 be collected in the same manner as other fines "for crimes under State law"
3 is substituted for the former reference to fines for "offenses against the
4 general police regulations of the State" for brevity.

5 In subsection (b)(2) of this section, the former phrase "forthwith adjudge" is
6 deleted as surplusage.

7 Also in subsection (b)(2) of this section, the reference to "court costs" is
8 substituted for the former reference to "all the costs of the proceedings
9 before him" for clarity and consistency.

10 In subsection (b)(2)(i) of this section, the reference to "the court receiv[ing]
11 a certificate in writing" is substituted for the former phrase "upon the
12 certificate in writing ... [and] upon the production of the said certificate
13 before the court" for clarity.

14 In subsection (b)(2)(ii) of this section, the phrase "brought before the court"
15 is substituted for the former phrase "production ... before the court" for
16 clarity.

17 In subsection (c) of this section, the term "offender" is substituted for the
18 former term "delinquent" for consistency throughout this subtitle.

19 Also in subsection (c) of this section, the term "local correctional facility" is
20 substituted for the former term "jail" for consistency with other revised
21 articles. *See, e.g.*, the Correctional Services Article and Criminal Procedure
22 Article.

23 Also in subsection (c) of this section, the term "municipal corporation" is
24 substituted for the former term "city" to conform with terminology in the
25 Correctional Services Article relating to local correctional facilities. *See* CS
26 § 1-101.

27 In subsection (d) of this section, the reference to a fine "collected under
28 subsection (c) of this section" is substituted for the former reference to a
29 fine "imposed on appeal from the judgment of the District Court" for
30 clarity. The Public Safety Article Review Committee notes that, although
31 the former law referred to an "appeal from a judgment", this more
32 accurately is an action to collect a fine previously imposed by a
33 court-martial.

34 Defined term: "County" § 1-101

35 SUBTITLE 9. PROHIBITED ACTS.

36 13-901. UNLAWFUL WEARING OF UNIFORM.

37 (A) SCOPE OF SECTION.

1 THIS SECTION DOES NOT APPLY TO THE WEARING OF:

2 (1) SHOES, SOCKS, SHIRTS, TIES, OR SCARFS; OR

3 (2) TROUSERS, OVERALLS, OVERCOATS, RAINCOATS, FIELD JACKETS, OR
4 HEADGEAR FROM WHICH THE SERVICE BUTTONS, INSIGNIA, AND OTHER
5 DISTINCTIVE MARKINGS HAVE BEEN REMOVED.

6 (B) PROHIBITED.

7 WITHOUT AUTHORITY UNDER THE LAWS OF THE UNITED STATES OR THIS
8 STATE, A PERSON MAY NOT WEAR A UNIFORM OR DISTINCTIVE PART OF A UNIFORM
9 OR AN ITEM SIMILAR TO A UNIFORM OR A DISTINCTIVE PART OF A UNIFORM OF:

10 (1) THE UNITED STATES ARMY, NAVY, AIR FORCE, MARINE CORPS, OR
11 COAST GUARD; OR

12 (2) THE NATIONAL GUARD OF THIS STATE, ANOTHER STATE, OR THE
13 UNITED STATES;

14 (3) THE MARYLAND DEFENSE FORCE; OR

15 (4) AN AUXILIARY OF ANY OF THE MILITARY UNITS LISTED IN THIS
16 SUBSECTION.

17 (C) PENALTY.

18 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
19 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 60 DAYS OR A FINE
20 OF NOT LESS THAN \$100 AND NOT EXCEEDING \$500 OR BOTH.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 96 1/2, § 42.

23 In subsection (b)(1) of this section, the reference to the "Air Force" is added.
24 *See* General Revisor's Note to title.

25 In subsection (b)(2) of this section, the former reference to the "naval
26 militia" is deleted as obsolete. There is no longer a naval militia in
27 Maryland. *See* Ch. 638, Acts of 1999.

28 In subsection (b)(3) of this section, the reference to the "Maryland Defense
29 Force" is substituted for the former reference to the "State guard" for
30 accuracy. *See* § 2, Ch. 239, Acts of 1990, which provides that "with regard to
31 any existing regulation, policy, or document created by any official agency
32 or unit of the State, the term `Maryland State Guard' and every variation
33 of that term means `Maryland Defense Force'".

34 In subsection (c) of this section, the phrase "on conviction" is added for
35 clarity.

1 Defined terms: "Maryland Defense Force" § 13-101

2 "National Guard" § 13-101

3 "Person" § 1-101

4 "State" § 1-101

5 13-902. SALE, PURCHASE, OR IMPROPER USE OF PROPERTY; UNLAWFUL WEARING
6 OF UNIFORM.

7 (A) SCOPE OF SECTION.

8 THIS SECTION DOES NOT APPLY TO A MEMBER OF THE UNITED STATES ARMY,
9 NAVY, AIR FORCE, MARINES, OR COAST GUARD, THE ORGANIZED MILITIA OF THIS
10 STATE OR ANOTHER STATE, AN OFFICER OF THE MARYLAND DEFENSE FORCE, OR A
11 MEMBER OF ASSOCIATIONS WHOLLY COMPOSED OF SOLDIERS HONORABLY
12 DISCHARGED FROM THE ARMED FORCES OF THE UNITED STATES.

13 (B) PROHIBITED.

14 A PERSON MAY NOT:

15 (1) HIDE, SELL, DISPOSE OF, OFFER FOR SALE, PURCHASE, RETAIN
16 AFTER A DEMAND BY A COMMISSIONED OFFICER OF THE ORGANIZED MILITIA, OR
17 PLEDGE ANY ARMS, UNIFORMS, EQUIPMENT, OR OTHER MILITARY PROPERTY ISSUED
18 UNDER THIS TITLE; OR

19 (2) WEAR ANY OF THE FOLLOWING ARTICLES OR OBJECTS PRESCRIBED
20 BY LAW FOR THE USE OF THE ORGANIZED MILITIA:

21 (I) A UNIFORM;

22 (II) A DEVICE, STRAP, KNOT, OR INSIGNIA OF ANY DESIGN OR
23 CHARACTER THAT IS USED AS A DESIGNATION OF GRADE, RANK, OR OFFICE; OR

24 (III) AN ARTICLE OR OBJECT SIMILAR TO AN ARTICLE OR OBJECT
25 DESCRIBED IN ITEM (I) OR (II) OF THIS ITEM.

26 (C) PENALTY.

27 (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
28 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT LESS THAN \$20
29 AND NOT EXCEEDING \$50 FOR EACH OFFENSE.

30 (2) (I) A FINE IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION
31 SHALL BE PAID TO THE ADJUTANT GENERAL.

32 (II) THE ADJUTANT GENERAL SHALL APPLY A FINE PAID UNDER
33 THIS PARAGRAPH TO THE USE OF THE ORGANIZED MILITIA.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 65, § 49.

1 %In subsection (a) of this section, the reference to "Air Force, Marines, Coast
2 Guard" is added. *See* General Revisor's Note to title.

3 Also in subsection (a) of this section, the term "Maryland Defense Force" is
4 substituted for the former reference "independent military organizations
5 as designated in this article". The Maryland Defense Force is the only
6 military organization designated in this title, other than the National
7 Guard and inactive National Guard. *See* § 13-203 of this title.

8 Also in subsection (a) of this section, the former reference to "members of
9 the Confederate Veterans or like societies" is deleted as obsolete. There are
10 no living veterans of the Confederacy.

11 Also in subsection (a) of this section, the term "armed forces" is substituted
12 for the former term "service" for clarity.

13 In subsection (b)(1) of this section, the former phrase "in any manner" is
14 deleted as surplusage.

15 Also in subsection (b)(1) of this section, the former reference to "pawn[ing]"
16 military property is deleted as unnecessary in light of the reference to
17 "pledg[ing]" military property.

18 Also in subsection (b)(1) of this section, the reference to "this title" is
19 substituted for the former reference to the provisions of "this article" to
20 reflect the revision of former Article 65 as this "title".

21 In subsection (b)(2) of this section, the former reference to "general
22 regulations duly promulgated" is deleted as included in the reference to
23 "law". *See Md. Port Adm. v. Brawner Contracting Co.*, 303 Md. 44, 60
24 (1984), which states that a regulation has "the force and effect of law".

25 In subsection (c) of this section, the reference to a conviction "in the
26 District Court sitting in the city or county wherein such offense was
27 committed" is deleted as unnecessary in light of the general provisions of
28 CJ § 4-301, which grants the District Court jurisdiction over misdemeanor
29 cases, and CP § 4-201, which establishes the venue of the District Court in
30 criminal cases.

31 Also in subsection (c) of this section, the former reference to a person "in
32 default of the payment of the fine and costs" being "committed to the jail of
33 the county or city, as the case may be, pursuant to the provisions of Art. 38,
34 § 4, Annotated Code of Maryland" is deleted as an unnecessary
35 restatement of Art. 38, § 4.

36 In subsection (c)(2)(i) of this section, the reference to a fine imposed "under
37 paragraph (1) of this subsection" is substituted for the former reference to
38 a fine imposed "on appeal from the judgment of the District Court" to
39 clarify that all fines should be paid to the Adjutant General.

1 %The Public Safety Article Review Committee notes, for consideration by the
2 General Assembly, that the activity prohibited by subsection (b)(2) of this
3 section is arguably also prohibited by § 13-901, which is broader and
4 carries a greater penalty. The General Assembly may wish to consider
5 whether subsection (b)(2) of this section is necessary in light of § 13-901.

6 Defined terms: "Maryland Defense Force" § 13-101

7 "Person" § 1-101

8 "State" § 1-101

9 13-903. MISAPPLICATION OR CONVERSION OF MONEY OR PROPERTY.

10 (A) PROHIBITED.

11 A PERSON MAY NOT WILLFULLY:

12 (1) MISAPPLY OR CONVERT TO THE PERSON'S OWN USE ANY MONEY OR
13 OTHER PROPERTY BELONGING TO THE ORGANIZED MILITIA; OR

14 (2) ON THE LAWFUL REQUEST OF THE PROPER OFFICER, FAIL OR
15 REFUSE TO DELIVER TO THE OFFICER ANY MONEY OR OTHER PROPERTY THAT IS IN
16 THE POSSESSION OF THE PERSON OR FOR WHICH THE PERSON IS CHARGEABLE OR
17 ACCOUNTABLE.

18 (B) PENALTY.

19 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
20 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE
21 NOT EXCEEDING \$500 OR BOTH.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 65, § 50.

24 In the introductory language of subsection (a) of this section, the former
25 reference "unlawfully" is deleted as implicit in the reference "willfully".

26 In subsection (a)(1) of this section, the former reference to "any
27 organization thereof" is deleted as implicit in the reference to the
28 "organized militia".

29 In subsection (b) of this section, the former reference to a conviction in "the
30 District Court sitting in the city or county wherein such offense was
31 committed, or the circuit court of the county wherein such offense was
32 committed, should the accused party prefer a jury trial" is deleted as
33 unnecessary in light of the general provisions of CJ § 4-301, which grants
34 the District Court jurisdiction over misdemeanor cases, and CP § 4-201,
35 which establishes the venue of the District Court in criminal cases.

36 Also in subsection (b) of this section, the former reference to imprisonment
37 "in jail" is deleted as implicit in the reference to imprisonment.

1 %Also in subsection (b) of this section, the former reference to "the discretion
2 of the court" is deleted as implicit in the authority to set maximum
3 penalties.

4 Defined term: "Person" § 1-101

5 13-904. EXCLUSION FROM PLACES OF AMUSEMENT OR RECREATION.

6 (A) PROHIBITED.

7 A PERSON WHO IS THE OWNER OR WHO IS AN AGENT OF THE OWNER OF A
8 PLACE OF AMUSEMENT OR RECREATION OPEN TO THE PUBLIC MAY NOT REFUSE
9 ADMISSION TO AN OFFICER OR ENLISTED INDIVIDUAL OF THE UNITED STATES ARMY,
10 NAVY, MARINE CORPS, COAST GUARD, OR AIR FORCE OR THE ORGANIZED MILITIA OF
11 THIS STATE OR OF ANOTHER STATE BECAUSE THE OFFICER OR ENLISTED
12 INDIVIDUAL IS IN UNIFORM.

13 (B) PENALTY.

14 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
15 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A
16 FINE NOT EXCEEDING \$500 OR BOTH.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from the second sentence of former Art. 65, § 51.

19 In subsection (a) of this section, the reference to the "Air Force" is added.
20 *See* General Revisor's Note to title.

21 Also in subsection (a) of this section, the reference to an enlisted
22 "individual" is substituted for the former reference to enlisted "men". *See*
23 General Revisor's Note to title.

24 Also in subsection (a) of this section, the reference to the "Coast Guard" is
25 substituted for the former reference to the "Revenue Cutter Service". In
26 1915, in accordance with an Act of Congress (38 Statutes at Large, 800),
27 the Revenue Cutter Service and the Life-Saving Service were combined to
28 form the Coast Guard.

29 Also in subsection (a) of this section, the former reference to an agent
30 "whatever may be the latter's designation" is deleted as surplusage.

31 Also in subsection (a) of this section, the former reference to admission
32 "which is free or otherwise" is deleted as surplusage.

33 Also in subsection (a) of this section, the former reference to "exclud[ing]" a
34 person is deleted as included in the reference to "refus[ing] admission" to a
35 person.

36 Also in subsection (a) of this section, the former reference to refusing

1 admission "from the said place of amusement or of recreation" is deleted as
2 implicit in the refusal of "admission".

3 Also in subsection (a) of this section, the former reference to a "territory
4 and ... the District of Columbia" is deleted as included in the defined term
5 "State". See § 1-101 of this article.

6 In subsection (b) of this section, the former reference to "the discretion of
7 the court" is deleted as implicit in the authority to set maximum penalties.

8 Defined terms: "Person" § 1-101

9 "State" § 1-101

10 13-905. IMMUNITY FROM ARREST.

11 A MEMBER OF THE ORGANIZED MILITIA MAY NOT BE ARRESTED ON ANY
12 PROCESS NOT ISSUED BY A MILITARY AUTHORITY WHILE GOING TO, REMAINING AT,
13 OR RETURNING FROM A PLACE THAT THE MEMBER IS REQUIRED TO ATTEND FOR
14 MILITARY DUTY.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from the first sentence of former Art. 65, § 51.

17 GENERAL REVISOR'S NOTE TO TITLE:

18 In this title, the names of various branches of the armed forces are added for
19 completeness. 10 U.S.C. § 101(a)(4) defines armed forces as follows: "The term `armed
20 forces' means the Army, Navy, Air Forces, Marine Corps, and Coast Guard". Where
21 there is no apparent rationale in former Article 65 for the omission of the names of
22 one or more of these branches, this revision adds the omitted references for
23 completeness and to conform to federal law.

24 In several instances throughout this title, where the former law only referenced
25 the United States Army, the reference to the United States Air Force has been added.
26 Formerly part of the United States Army known as the Army Air Corps, in 1947 the
27 United States Air Force became an independent branch of the armed forces. Under
28 current law, the National Guard is divided into the Army National Guard and the Air
29 National Guard. Current practice is for officers of the United States Air Force to
30 command units of the Air National Guard and to participate in examining applicants
31 for commissioning as an officer. Also, former officers and enlisted persons of the
32 United States Air Force and graduates from the United States Air Force Academy are
33 eligible for appointment as officers of the National Guard. For conformity with
34 current law and practice, references to the United States Air Force have been added
35 where there are references to the United States Army. The only exception to this is in
36 § 13-305 of this title, which requires appointment of a Deputy Assistant Adjutant
37 General for the Maryland Army National Guard but is silent regarding this position
38 for the Air National Guard.

39 Also this title adds a definition of "State active duty". It replaces various
40 references in former Article 65 to "active duty status", "active service", and "military

1 service". The terms "active duty" and "active military service", although not defined,
2 also appear in this title. "Active duty" includes both State active duty and active duty
3 under federal law.

4 Throughout this title, the terms "enlisted individuals" and "enlisted individual"
5 are substituted for the former terms "enlisted men", "enlisted man", and "enlisted
6 person". Under Art. 1, § 7, "[u]nless the General Assembly specifically provides
7 otherwise in a particular statute, all words in this code importing one gender include
8 and apply to the other gender as well". Also, the references to an "individual" are
9 substituted for the former references to a "person" because only an individual and not
10 the other entities included in the defined term "person" can be members of the militia.
11 See § 1-101 of this article for the definition of "person".

12 Former Art. 65, § 77, which established severability for former Article 65, is
13 deleted as unnecessary in light of Art. 1, § 23, which establishes severability for all
14 statutes enacted after July 1, 1973.

15 TITLE 14. EMERGENCY MANAGEMENT.

16 SUBTITLE 1. MARYLAND EMERGENCY MANAGEMENT AGENCY ACT.

17 14-101. DEFINITIONS.

18 (A) IN GENERAL.

19 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

20 REVISOR'S NOTE: This subsection is new language derived without
21 substantive change from the introductory phrase of former Art. 16A, § 3.

22 It is restated in the standard introductory language to a definition section.

23 (B) DIRECTOR.

24 "DIRECTOR" MEANS THE DIRECTOR OF MEMA.

25 REVISOR'S NOTE: This subsection is new language added as a shorthand
26 reference to the Director of the Maryland Emergency Management Agency.

27 Defined term: "MEMA" § 14-101

28 (C) EMERGENCY.

29 "EMERGENCY" MEANS THE THREAT OR OCCURRENCE OF:

30 (1) A HURRICANE, TORNADO, STORM, FLOOD, HIGH WATER,
31 WIND-DRIVEN WATER, TIDAL WAVE, EARTHQUAKE, LANDSLIDE, MUDSLIDE,
32 SNOWSTORM, DROUGHT, FIRE, EXPLOSION, AND ANY OTHER DISASTER IN ANY PART

1 OF THE STATE THAT REQUIRES STATE ASSISTANCE TO SUPPLEMENT LOCAL
2 EFFORTS IN ORDER TO SAVE LIVES AND PROTECT PUBLIC HEALTH AND SAFETY; OR

3 (2) AN ENEMY ATTACK, ACT OF TERRORISM, OR PUBLIC HEALTH
4 CATASTROPHE.

5 REVISOR'S NOTE: This subsection is new language derived without
6 substantive change from former Art. 16A, § 3(d).

7 In item (1) of this subsection, the reference to a "disaster" is substituted for
8 the former reference to a "catastrophe". In the former law the term
9 "disaster" was used throughout the subtitle, often in conjunction with the
10 term "emergency". By including a reference to "any other disaster" in the
11 defined term "emergency", one term - "emergency" - can be used
12 throughout this subtitle instead of two terms as in the former law.

13 Also in item (1) of this subsection, the former reference to State
14 "emergency" assistance is deleted to avoid using the term being defined in
15 its own definition.

16 (D) EMERGENCY MANAGEMENT.

17 (1) "EMERGENCY MANAGEMENT" MEANS THE PREPARATION FOR AND
18 CARRYING OUT OF FUNCTIONS IN AN EMERGENCY IN ORDER TO SAVE LIVES AND TO
19 MINIMIZE AND REPAIR INJURY AND DAMAGE THAT RESULT FROM EMERGENCIES
20 BEYOND THE CAPABILITIES OF LOCAL AUTHORITIES.

21 (2) "EMERGENCY MANAGEMENT" DOES NOT INCLUDE THE
22 PREPARATION FOR AND CARRYING OUT OF FUNCTIONS IN AN EMERGENCY FOR
23 WHICH MILITARY FORCES ARE PRIMARILY RESPONSIBLE.

24 REVISOR'S NOTE: This subsection is new language derived without
25 substantive change from former Art. 16A, § 3(a).

26 Defined term: "Emergency" § 14-101

27 (E) LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT.

28 "LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT" MEANS AN
29 ORGANIZATION ESTABLISHED BY A POLITICAL SUBDIVISION OR OTHER LOCAL
30 AUTHORITY UNDER § 14-109 OF THIS SUBTITLE.

31 REVISOR'S NOTE: This subsection is new language derived without
32 substantive change from former Art. 16A, § 3(b).

33 The defined term "political subdivision" is substituted for the former
34 reference to a "city, town, [or] county" to conform to language used in §
35 14-109 of this subtitle and to use the defined term.

36 The former phrase "as authorized by the Governor under the State plan" is

1 deleted as unnecessary in light of the reference to an organization
2 established by a political subdivision "under § 14-109 of this subtitle".

3 Defined term: "Political subdivision" § 14-101

4 (F) MEMA.

5 "MEMA" MEANS THE MARYLAND EMERGENCY MANAGEMENT AGENCY.

6 REVISOR'S NOTE: This subsection is new language added as a shorthand
7 reference to the Maryland Emergency Management Agency.

8 (G) POLITICAL SUBDIVISION.

9 "POLITICAL SUBDIVISION" MEANS A COUNTY OR MUNICIPAL CORPORATION OF
10 THE STATE.

11 REVISOR'S NOTE: This subsection is new language derived without
12 substantive change from former Art. 16A, § 3(c).

13 The phrase "of the State" is added for clarity and to avoid repetition in the
14 revision of the reference to a political subdivision "of the State".
15 Consequently, throughout this subtitle, former references to a political
16 subdivision "of this State" are deleted.

17 The former specific references to a "town", "village", and "district" are
18 deleted as unnecessary in light of the general references to a "county" and
19 "municipal corporation".

20 Defined term: "County" § 1-101

21 14-102. LEGISLATIVE POLICY.

22 (A) IN GENERAL.

23 TO ENSURE THAT THE STATE WILL BE ADEQUATELY PREPARED TO DEAL WITH
24 EMERGENCIES THAT ARE BEYOND THE CAPABILITIES OF LOCAL AUTHORITIES, TO
25 PROVIDE FOR THE COMMON DEFENSE, TO PROTECT THE PUBLIC PEACE, HEALTH,
26 AND SAFETY, AND TO PRESERVE THE LIVES AND PROPERTY OF THE PEOPLE OF THE
27 STATE, IT IS NECESSARY TO:

28 (1) ESTABLISH A MARYLAND EMERGENCY MANAGEMENT AGENCY;

29 (2) AUTHORIZE THE ESTABLISHMENT OF LOCAL ORGANIZATIONS FOR
30 EMERGENCY MANAGEMENT IN THE POLITICAL SUBDIVISIONS;

31 (3) CONFER ON THE GOVERNOR AND ON THE EXECUTIVE HEADS OR
32 GOVERNING BODIES OF THE POLITICAL SUBDIVISIONS THE EMERGENCY POWERS
33 PROVIDED IN THIS SUBTITLE; AND

1 (4) PROVIDE FOR THE RENDERING OF MUTUAL AID AMONG THE
2 POLITICAL SUBDIVISIONS AND WITH OTHER STATES IN CARRYING OUT EMERGENCY
3 MANAGEMENT FUNCTIONS.

4 (B) EFFECTIVE USE OF RESOURCES.

5 IT IS THE POLICY OF THE STATE AND THE PURPOSE OF THIS SUBTITLE TO
6 COORDINATE, TO THE MAXIMUM EXTENT POSSIBLE, ALL EMERGENCY MANAGEMENT
7 FUNCTIONS OF THE STATE WITH THE COMPARABLE FUNCTIONS OF THE FEDERAL
8 GOVERNMENT, OTHER STATES, OTHER LOCALITIES, AND PRIVATE AGENCIES, SO
9 THAT THE MOST EFFECTIVE PREPARATION AND USE MAY BE MADE OF THE
10 RESOURCES AND FACILITIES AVAILABLE FOR DEALING WITH ANY EMERGENCY.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 16A, § 2.

13 In the introductory language of subsection (a) of this section, the former
14 reference to "disasters" is deleted as included in the defined term
15 "emergenc[ies]".

16 Also in the introductory language of subsection (a) of this section, the
17 former phrase "found and declared to be" is deleted as surplusage.

18 In subsection (b) of this section, the former phrase "further declared to be"
19 is deleted as surplusage.

20 Also in subsection (b) of this section, the defined term "emergency" is
21 substituted for the former reference to a "disaster" for clarity.

22 Also in subsection (b) of this section, the former phrase "of every type",
23 which modified "private agencies", is deleted as surplusage. Similarly, the
24 former phrase "that may occur", which modified "any disaster", is deleted
25 as surplusage.

26 Defined terms: "Emergency" § 14-101

27 "Emergency management" § 14-101

28 "Local organization for emergency management" § 14-101

29 "Political subdivision" § 14-101

30 "State" § 1-101

31 14-103. MARYLAND EMERGENCY MANAGEMENT AGENCY ESTABLISHED.

32 (A) IN GENERAL.

33 THERE IS A MARYLAND EMERGENCY MANAGEMENT AGENCY IN THE MILITARY
34 DEPARTMENT.

35 (B) UNIT OF STATE GOVERNMENT.

36 MEMA IS A UNIT OF STATE GOVERNMENT.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 65, § 15A and former Art. 16A, § 4(a)(1).

3 In subsection (b) of this section, the reference to a "unit" of State
4 government is substituted for the former reference to an "agency" for
5 consistency with terminology used throughout the revised articles of the
6 Code. The term "unit" is used as the general term for an entity in the State
7 government because it is inclusive enough to include all such entities. *See*
8 General Revisor's Note to article.

9 Defined terms: "Emergency management" § 14-101

10 "MEMA" § 14-101

11 14-104. DIRECTOR OF MEMA.

12 (A) APPOINTMENT.

13 THE ADJUTANT GENERAL SHALL APPOINT THE DIRECTOR OF MEMA WITH THE
14 APPROVAL OF THE GOVERNOR.

15 (B) TERM.

16 THE DIRECTOR SERVES AT THE PLEASURE OF THE ADJUTANT GENERAL.

17 (C) SALARY.

18 (1) THE DIRECTOR IS IN THE EXECUTIVE SERVICE OF THE STATE
19 PERSONNEL MANAGEMENT SYSTEM AND IS ENTITLED TO THE SALARY PROVIDED IN
20 THE STATE BUDGET.

21 (2) THE DIRECTOR'S EMPLOYMENT IS NOT SUBJECT TO THE
22 CONDITIONS AND LIMITATIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

23 (D) DUTIES.

24 (1) THE DIRECTOR IS THE EXECUTIVE HEAD OF MEMA.

25 (2) THE DIRECTOR IS RESPONSIBLE TO THE GOVERNOR AND THE
26 ADJUTANT GENERAL FOR CARRYING OUT THE STATE EMERGENCY MANAGEMENT
27 PROGRAM.

28 (3) IF THE GOVERNOR HAS FORMALLY DECLARED THE THREAT OR
29 OCCURRENCE OF AN EMERGENCY, THE DIRECTOR SHALL COORDINATE THE
30 ACTIVITIES OF ALL ORGANIZATIONS FOR EMERGENCY MANAGEMENT OPERATIONS
31 IN THE STATE.

32 (4) WITH THE APPROVAL OF THE ADJUTANT GENERAL AND IN
33 COLLABORATION WITH OTHER PUBLIC AND PRIVATE AGENCIES IN THE STATE, THE
34 DIRECTOR SHALL DEVELOP OR CAUSE TO BE DEVELOPED MUTUAL AID AGREEMENTS
35 FOR RECIPROCAL EMERGENCY AID AND ASSISTANCE IN CASE OF EMERGENCY OF AN
36 EXTREME NATURE THAT AFFECTS TWO OR MORE POLITICAL SUBDIVISIONS.

1 (5) THE DIRECTOR SHALL MAINTAIN LIAISON AND COOPERATE WITH
2 EMERGENCY MANAGEMENT AGENCIES AND ORGANIZATIONS OF OTHER STATES AND
3 THE FEDERAL GOVERNMENT.

4 (E) STAFF.

5 SUBJECT TO THE AUTHORITY OF THE ADJUTANT GENERAL, THE DIRECTOR MAY
6 EMPLOY PERSONNEL IN ACCORDANCE WITH THE STATE BUDGET AND SUBJECT TO
7 THE CONDITIONS AND LIMITATIONS OF THE STATE PERSONNEL AND PENSIONS
8 ARTICLE.

9 (F) EXPENDITURES FOR EMERGENCY MANAGEMENT.

10 THE DIRECTOR MAY MAKE EXPENDITURES WITHIN THE APPROPRIATIONS IN
11 THE STATE BUDGET OR FROM OTHER MONEY MADE AVAILABLE TO THE DIRECTOR
12 FOR PURPOSES OF EMERGENCY MANAGEMENT AS NECESSARY TO CARRY OUT THIS
13 SUBTITLE.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 16A, §§ 8 and 4(a)(2), (b), and (c).

16 In subsection (c)(2) of this section, the reference to the "Director's
17 employment" not being subject to the conditions and limitations of the
18 State Personnel and Pensions Article is substituted for the former
19 parenthetical phrase "(except as to the position of Director)" for clarity.

20 In subsection (d)(3) of this section, the former reference to a "State"
21 emergency is deleted as unnecessary in light of the defined term
22 "emergency".

23 In subsection (d)(4) of this section, the reference to mutual aid
24 "agreements" is substituted for the former reference to "arrangements" for
25 consistency with terminology used throughout this title.

26 Also in subsection (d)(4) of this section, the defined term "emergency" is
27 substituted for the former reference to a "disaster" for clarity.

28 In subsection (e) of this section, the former specific references to
29 "professional, technical, clerical, stenographic, and other" personnel is
30 deleted as included in the general reference to "personnel".

31 In subsection (f) of this section, the former reference to "the purposes of"
32 this subtitle is deleted as surplusage.

33 Defined terms: "Director" § 14-101

34 "Emergency" § 14-101

35 "Emergency management" § 14-101

36 "MEMA" § 14-101

37 "Political subdivision" § 14-101

38 "State" § 1-101

1 14-105. EMERGENCY MANAGEMENT ADVISORY COUNCIL.

2 (A) ESTABLISHED.

3 THERE IS AN EMERGENCY MANAGEMENT ADVISORY COUNCIL.

4 (B) MEMBERSHIP.

5 THE COUNCIL CONSISTS OF THE MEMBERS THAT THE GOVERNOR DESIGNATES,
6 INCLUDING:

7 (1) FAIR AND REASONABLE REPRESENTATION FOR LOCAL
8 GOVERNMENT;

9 (2) REPRESENTATION FOR ORGANIZATIONS THAT REPRESENT
10 VOLUNTEER FIREFIGHTERS AND RESCUE SQUADS; AND

11 (3) REPRESENTATION FROM MANUFACTURING, UTILITIES, AND
12 COMMUNICATIONS INDUSTRIES.

13 (C) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

14 A MEMBER OF THE COUNCIL:

15 (1) MAY NOT RECEIVE COMPENSATION FOR SERVICE ON THE COUNCIL;
16 BUT

17 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
18 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

19 (D) DUTIES.

20 THE COUNCIL SHALL ADVISE THE GOVERNOR ON ALL MATTERS THAT RELATE
21 TO EMERGENCY MANAGEMENT.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 16A, § 5.

24 In subsection (b) of this section, the former reference to the members that
25 the Governor "shall deem appropriate" is deleted as implicit in the
26 reference to the members that the Governor "designates".

27 In subsection (c)(1) of this section, the phrase "for service on the Council" is
28 added for specificity.

29 Subsection (c)(2) of this section is revised in standard language used to
30 provide for reimbursement of expenses for members of boards and
31 commissions. Under SF § 10-203, the Board of Public Works has adopted
32 regulations for reimbursement of expenses. *See* COMAR 23.02.01.01
33 through .12.

1 %In subsection (d) of this section, the former reference to "State" emergency
2 management is deleted as unnecessary in light of the defined term
3 "emergency management".

4 Defined term: "Emergency management" § 14-101

5 14-106. EMERGENCY MANAGEMENT POWERS OF GOVERNOR.

6 (A) IN GENERAL.

7 (1) THE GOVERNOR:

8 (I) HAS CONTROL OF AND IS RESPONSIBLE FOR MEMA; AND

9 (II) IS RESPONSIBLE FOR CARRYING OUT THIS SUBTITLE.

10 (2) IN THE EVENT OF THE THREAT OR OCCURRENCE OF AN EMERGENCY,
11 THE GOVERNOR MAY ASSUME DIRECT OPERATIONAL CONTROL OVER ALL OR PART
12 OF AN EMERGENCY MANAGEMENT FUNCTION CREATED OR AUTHORIZED BY THIS
13 SUBTITLE AND SUBTITLES 2 AND 4 OF THIS TITLE.

14 (3) THE GOVERNOR MAY DELEGATE THE POWERS THE GOVERNOR SEES
15 FIT TO AN INDIVIDUAL WHO IS EMPLOYED:

16 (I) IN THE EXECUTIVE DEPARTMENT OF STATE GOVERNMENT;

17 (II) AS A SECRETARY OF A PRINCIPAL DEPARTMENT; OR

18 (III) AS THE HEAD OF AN INDEPENDENT STATE AGENCY.

19 (B) SPECIFIC POWERS.

20 IN PERFORMING DUTIES UNDER THIS SUBTITLE, THE GOVERNOR:

21 (1) MAY COOPERATE WITH THE FEDERAL GOVERNMENT, OTHER
22 STATES, AND PRIVATE AGENCIES IN ALL MATTERS THAT RELATE TO THE
23 EMERGENCY MANAGEMENT OPERATIONS OF THIS STATE AND THE UNITED STATES;

24 (2) MAY ISSUE ORDERS, RULES, AND REGULATIONS NECESSARY OR
25 DESIRABLE TO:

26 (I) CARRY OUT THIS SUBTITLE;

27 (II) PREPARE AND REVISE, AS NECESSARY, A COMPREHENSIVE
28 PLAN AND PROGRAM FOR THE EMERGENCY MANAGEMENT OPERATIONS OF THIS
29 STATE;

30 (III) INTEGRATE THE PLAN AND PROGRAM OF THIS STATE WITH THE
31 EMERGENCY MANAGEMENT OPERATIONS PLANS OF THE FEDERAL GOVERNMENT
32 AND OTHER STATES; AND

1 (IV) COORDINATE THE PREPARATION OF PLANS AND PROGRAMS
2 FOR EMERGENCY MANAGEMENT OPERATIONS BY THE POLITICAL SUBDIVISIONS;

3 (3) MAY AUTHORIZE THE PROCUREMENT OF SUPPLIES AND EQUIPMENT
4 AND THE INSTITUTION OF TRAINING PROGRAMS AND PUBLIC INFORMATION
5 PROGRAMS AND OTHER STEPS TO PREPARE FOR AN EMERGENCY;

6 (4) MAY AUTHORIZE STUDIES AND SURVEYS OF INDUSTRIES,
7 RESOURCES, AND FACILITIES IN THE STATE AS NECESSARY OR DESIRABLE TO:

8 (I) ASCERTAIN THE STATE'S CAPABILITIES FOR EMERGENCY
9 MANAGEMENT OPERATIONS; AND

10 (II) PREPARE PLANS FOR THE EMERGENCY MANAGEMENT OF
11 RESOURCES IN ACCORDANCE WITH THE NATIONAL PLAN FOR EMERGENCY
12 PREPAREDNESS;

13 (5) MAY APPOINT, IN COOPERATION WITH LOCAL AUTHORITIES,
14 DIRECTORS OF LOCAL ORGANIZATIONS FOR EMERGENCY MANAGEMENT, MAY
15 DELEGATE TO THE DIRECTORS ANY ADMINISTRATIVE AUTHORITY VESTED IN THE
16 GOVERNOR UNDER THIS SUBTITLE, AND MAY PROVIDE FOR THE SUBDELEGATION OF
17 THAT AUTHORITY; AND

18 (6) MAY DELEGATE THE GOVERNOR'S AUTHORITY UNDER THIS
19 SUBSECTION TO AN INDIVIDUAL WHO IS EMPLOYED:

20 (I) IN THE EXECUTIVE DEPARTMENT OF STATE GOVERNMENT;

21 (II) AS A SECRETARY OF A PRINCIPAL DEPARTMENT; OR

22 (III) AS THE HEAD OF AN INDEPENDENT STATE AGENCY.

23 (C) HARMFUL CONSEQUENCES OF POTENTIAL EMERGENCIES.

24 (1) IN ADDITION TO EMERGENCY PREVENTION MEASURES INCLUDED IN
25 THE STATE, LOCAL, AND INTERJURISDICTIONAL EMERGENCY PLANS, THE
26 GOVERNOR SHALL CONSIDER, ON A CONTINUING BASIS, STEPS THAT COULD BE
27 TAKEN TO PREVENT OR REDUCE THE HARMFUL CONSEQUENCES OF POTENTIAL
28 EMERGENCIES.

29 (2) (I) AT THE DIRECTION OF THE GOVERNOR, AND IN ACCORDANCE
30 WITH ANY OTHER AUTHORITY AND COMPETENCE THEY HAVE, STATE AGENCIES
31 SHALL STUDY MATTERS RELATED TO EMERGENCY PREVENTION.

32 (II) STATE AGENCIES REQUIRED TO STUDY MATTERS RELATED TO
33 EMERGENCY PREVENTION INCLUDE THOSE CHARGED WITH RESPONSIBILITIES IN
34 CONNECTION WITH FLOOD PLAIN MANAGEMENT, STREAM ENCROACHMENT AND
35 FLOW REGULATION, WEATHER MODIFICATION, FIRE PREVENTION AND CONTROL,
36 AIR QUALITY, PUBLIC WORKS, LAND USE AND LAND-USE PLANNING, AND
37 CONSTRUCTION STANDARDS.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 16A, § 6.

3 In subsection (a)(1)(i) of this section, the reference to the Governor being
4 "responsible for" MEMA is substituted for the former reference to the
5 Governor having "general direction" of MEMA for clarity.

6 In subsection (a)(2) of this section, the reference to "this subtitle and
7 Subtitles 2 and 4 of this title" is substituted for the former reference to
8 "this article" for accuracy. Former Article 16A is revised in Subtitles 1, 2,
9 and 4 of this title.

10 In subsection (b)(3) of this section, the former reference to a "State"
11 emergency is deleted as unnecessary in light of the defined term
12 "emergency".

13 Subsection (b)(4) of this section is revised as the power of the Governor to
14 authorize studies and surveys, rather than the duty to do so, in light of the
15 structure of former Art. 16A, § 6(b), which listed other actions the
16 Governor "may" perform. Former Art. 16A, § 6(b)(4), from which subsection
17 (b)(4) of this section is derived, was silent as to whether it was a grant of
18 authority or the imposition of a duty or responsibility.

19 In subsection (b)(5) of this section, the reference to directors "of local
20 organizations for emergency management" is substituted for the former
21 reference to directors "for the political subdivisions of the State" for clarity.
22 *See* § 14-109 of this subtitle.

23 Throughout subsection (c)(1) of this section, the defined term
24 "emergenc[ies]" is substituted for the former references to "disaster[s]" to
25 use the defined term and for consistency throughout this subtitle.

26 Defined terms: "Director" § 14-101

27 "Emergency" § 14-101

28 "Emergency management" § 14-101

29 "Local organization for emergency management" § 14-101

30 "MEMA" § 14-101

31 "State" § 1-101

32 14-107. STATE OF EMERGENCY -- DECLARATION BY GOVERNOR.

33 (A) IN GENERAL.

34 (1) IF THE GOVERNOR FINDS THAT AN EMERGENCY HAS DEVELOPED OR
35 IS IMPENDING DUE TO ANY CAUSE, THE GOVERNOR SHALL DECLARE A STATE OF
36 EMERGENCY BY EXECUTIVE ORDER OR PROCLAMATION.

37 (2) THE STATE OF EMERGENCY CONTINUES UNTIL THE GOVERNOR:

1 (I) FINDS THAT THE THREAT OR DANGER HAS PASSED OR THE
2 EMERGENCY HAS BEEN DEALT WITH TO THE EXTENT THAT EMERGENCY
3 CONDITIONS NO LONGER EXIST; AND

4 (II) TERMINATES THE STATE OF EMERGENCY BY EXECUTIVE
5 ORDER OR PROCLAMATION.

6 (3) A STATE OF EMERGENCY MAY NOT CONTINUE FOR LONGER THAN 30
7 DAYS UNLESS THE GOVERNOR RENEWS THE STATE OF EMERGENCY.

8 (4) (I) THE GENERAL ASSEMBLY BY JOINT RESOLUTION MAY
9 TERMINATE A STATE OF EMERGENCY AT ANY TIME.

10 (II) AFTER THE GENERAL ASSEMBLY TERMINATES A STATE OF
11 EMERGENCY, THE GOVERNOR SHALL ISSUE AN EXECUTIVE ORDER OR
12 PROCLAMATION THAT TERMINATES THE STATE OF EMERGENCY.

13 (B) CONTENTS OF DECLARATION; PUBLICITY.

14 (1) EACH EXECUTIVE ORDER OR PROCLAMATION THAT DECLARES OR
15 TERMINATES A STATE OF EMERGENCY SHALL INDICATE:

16 (I) THE NATURE OF THE EMERGENCY;

17 (II) THE AREA THREATENED; AND

18 (III) THE CONDITIONS THAT HAVE BROUGHT ABOUT THE STATE OF
19 EMERGENCY OR THAT MAKE POSSIBLE THE TERMINATION OF THE STATE OF
20 EMERGENCY.

21 (2) EACH EXECUTIVE ORDER OR PROCLAMATION SHALL BE:

22 (I) DISSEMINATED PROMPTLY BY MEANS CALCULATED TO
23 PUBLICIZE ITS CONTENTS; AND

24 (II) UNLESS PREVENTED OR IMPEDED BY THE CIRCUMSTANCES OF
25 THE EMERGENCY, FILED PROMPTLY WITH:

26 1. MEMA;

27 2. THE STATE ARCHIVES; AND

28 3. THE CHIEF LOCAL RECORDS-KEEPING AGENCY IN THE
29 AREA TO WHICH THE EXECUTIVE ORDER OR PROCLAMATION APPLIES.

30 (C) RESPONSIBILITY OF DIRECTOR; EFFECT OF DECLARATION.

31 (1) AFTER THE GOVERNOR DECLARES A STATE OF EMERGENCY, THE
32 DIRECTOR SHALL COORDINATE THE ACTIVITIES OF THE AGENCIES OF THE STATE
33 AND OF THOSE POLITICAL SUBDIVISIONS INCLUDED IN THE DECLARATION IN ALL

1 ACTIONS THAT SERVE TO PREVENT OR ALLEVIATE THE ILL EFFECTS OF THE
2 IMMINENT OR ACTUAL EMERGENCY.

3 (2) AN EXECUTIVE ORDER OR PROCLAMATION THAT DECLARES A STATE
4 OF EMERGENCY:

5 (I) ACTIVATES THE EMERGENCY RESPONSE AND RECOVERY
6 ASPECTS OF THE STATE AND LOCAL EMERGENCY PLANS APPLICABLE TO THE
7 POLITICAL SUBDIVISION OR AREA COVERED BY THE DECLARATION; AND

8 (II) IS AUTHORITY FOR:

9 1. THE DEPLOYMENT AND USE OF RESOURCES TO WHICH
10 THE STATE OR LOCAL PLANS APPLY; AND

11 2. THE USE OR DISTRIBUTION OF SUPPLIES, EQUIPMENT,
12 MATERIALS, AND FACILITIES ASSEMBLED, STOCKPILED, OR ARRANGED TO BE MADE
13 AVAILABLE IN ACCORDANCE WITH THIS SUBTITLE OR ANY OTHER LAW THAT
14 RELATES TO EMERGENCIES.

15 (D) OTHER ACTIONS BY GOVERNOR.

16 (1) AFTER DECLARING A STATE OF EMERGENCY, THE GOVERNOR, IF THE
17 GOVERNOR FINDS IT NECESSARY IN ORDER TO PROTECT THE PUBLIC HEALTH,
18 WELFARE, OR SAFETY, MAY:

19 (I) SUSPEND THE EFFECT OF ANY STATUTE OR RULE OR
20 REGULATION OF AN AGENCY OF THE STATE OR A POLITICAL SUBDIVISION;

21 (II) DIRECT AND COMPEL THE EVACUATION OF ALL OR PART OF
22 THE POPULATION FROM A STRICKEN OR THREATENED AREA IN THE STATE;

23 (III) SET EVACUATION ROUTES AND THE MODES OF
24 TRANSPORTATION TO BE USED DURING AN EMERGENCY;

25 (IV) DIRECT THE CONTROL OF INGRESS TO AND EGRESS FROM AN
26 EMERGENCY AREA, THE MOVEMENT OF INDIVIDUALS IN THE AREA, AND THE
27 OCCUPANCY OF PREMISES IN THE AREA;

28 (V) AUTHORIZE THE USE OF PRIVATE PROPERTY, IN WHICH EVENT
29 THE OWNER OF THE PROPERTY SHALL BE COMPENSATED FOR ITS USE AND FOR ANY
30 DAMAGE TO THE PROPERTY;

31 (VI) PROVIDE FOR TEMPORARY HOUSING; AND

32 (VII) AUTHORIZE THE CLEARANCE AND REMOVAL OF DEBRIS AND
33 WRECKAGE.

34 (2) THE POWERS OF THE GOVERNOR UNDER THIS SUBSECTION ARE IN
35 ADDITION TO ANY OTHER AUTHORITY VESTED IN THE GOVERNOR BY LAW.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 16A, §§ 6A and 6B.

3 In subsection (a)(4)(ii) of this section, the phrase "[a]fter the General
4 Assembly terminates a state of emergency" is substituted for the former
5 reference to "[t]hereupon" for clarity.

6 In subsection (b)(2)(i) of this section, the phrase "to publicize its contents"
7 is substituted for the former phrase "to bring its contents to the attention
8 of the general public" for clarity and brevity.

9 In subsection (b)(2)(ii)3 of this section, the reference to the "chief" local
10 records-keeping agency is added for clarity and consistency with §
11 14-111(b)(2)(ii) of this subtitle.

12 In subsection (c)(1) of this section, the reference to the activities of the
13 "agencies of the State" is substituted for the former reference to the
14 activities of the "offices of the State government" for consistency with
15 terminology used throughout this subtitle.

16 In subsection (c)(2)(i) of this section, the reference to an "emergency"
17 response is substituted for the former reference to a "disaster" response for
18 consistency with terminology used throughout this subtitle. Similarly, the
19 former reference to "disaster" emergency plans is deleted as redundant.

20 Also in subsection (c)(2)(i) of this section, the reference to the political
21 subdivision or area "covered by the declaration" is substituted for the
22 former reference to the political subdivision or area "in question" for
23 clarity.

24 In subsection (d)(1)(i) of this section, the reference to the "effect of any"
25 statute, rule, or regulation is added for clarity.

26 Also in subsection (d)(1)(i) of this section, the reference to a rule or
27 regulation of "an agency of the State or a political subdivision" is
28 substituted for the former reference to a rule or regulation of a "State or
29 local agency" for clarity and consistency throughout this subtitle.

30 In subsection (d)(1)(iv) of this section, the reference to "individuals" is
31 substituted for the former reference to "persons" because individuals, and
32 not the other entities included in the defined term "person", move about in
33 an area covered by the declaration of a state of emergency. *See* § 1-101 of
34 this article for the definition of "person".

35 Defined terms: "Emergency" § 14-101

36 "Emergency management" § 14-101

37 "MEMA" § 14-101

38 "Political subdivision" § 14-101

1 14-108. SAME -- DECLARED IN ANOTHER STATE.

2 (A) POWERS OF GOVERNOR.

3 AFTER A STATE OF EMERGENCY IS DECLARED IN ANOTHER STATE AND THE
4 GOVERNOR RECEIVES A WRITTEN REQUEST FOR ASSISTANCE FROM THE EXECUTIVE
5 AUTHORITY OF THAT STATE, THE GOVERNOR MAY:

6 (1) AUTHORIZE USE IN THE OTHER STATE OF PERSONNEL, EQUIPMENT,
7 SUPPLIES, OR MATERIALS OF THIS STATE, OR OF A POLITICAL SUBDIVISION WITH
8 THE CONSENT OF THE EXECUTIVE OFFICER OR GOVERNING BODY OF THE POLITICAL
9 SUBDIVISION; AND

10 (2) SUSPEND THE EFFECT OF ANY STATUTE OR RULE OR REGULATION
11 OF AN AGENCY OF THE STATE OR, AFTER CONSULTING WITH THE EXECUTIVE
12 OFFICER OR GOVERNING BODY OF A POLITICAL SUBDIVISION, A RULE OR
13 REGULATION OF AN AGENCY OF A POLITICAL SUBDIVISION, IF THE GOVERNOR
14 FINDS THAT THE SUSPENSION IS NECESSARY TO AID THE OTHER STATE WITH ITS
15 EMERGENCY MANAGEMENT FUNCTIONS.

16 (B) ISSUANCE OF EXECUTIVE ORDER; CONTENTS; PUBLICITY.

17 (1) THE GOVERNOR SHALL AUTHORIZE THE USE OF RESOURCES OR THE
18 SUSPENSION OF THE EFFECT OF ANY STATUTE, RULE, OR REGULATION UNDER
19 SUBSECTION (A) OF THIS SECTION BY EXECUTIVE ORDER.

20 (2) AN EXECUTIVE ORDER ISSUED UNDER THIS SECTION MAY NOT
21 CONTINUE FOR LONGER THAN 30 DAYS UNLESS THE GOVERNOR RENEWS THE
22 EXECUTIVE ORDER.

23 (3) EACH EXECUTIVE ORDER ISSUED UNDER THIS SECTION SHALL
24 INDICATE:

25 (I) THE NATURE OF THE EMERGENCY IN THE OTHER STATE; AND

26 (II) ANY CIRCUMSTANCES THAT MAKE SUSPENSION OF A STATUTE,
27 RULE, OR REGULATION NECESSARY TO AID THE OTHER STATE WITH ITS EMERGENCY
28 MANAGEMENT FUNCTIONS.

29 (4) EACH EXECUTIVE ORDER SHALL BE:

30 (I) DISSEMINATED PROMPTLY BY MEANS CALCULATED TO
31 PUBLICIZE ITS CONTENTS; AND

32 (II) FILED PROMPTLY WITH:

33 1. MEMA;

34 2. THE STATE ARCHIVES; AND

1 3. EACH AGENCY OF THE STATE OR A POLITICAL
2 SUBDIVISION THAT IS AUTHORIZED BY THE ORDER TO USE RESOURCES IN THE
3 OTHER STATE OR RESPONSIBLE FOR THE ENFORCEMENT OF ANY PROVISIONS THAT
4 ARE SUSPENDED BY THE EXECUTIVE ORDER.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 16A, § 6D.

7 In subsection (a)(1) of this section, the reference to the "other" state is
8 substituted for the former reference to the state "requesting assistance" for
9 brevity.

10 In subsections (a)(2) and (b)(1) of this section, the reference to "the effect of
11 any" statute, rule, or regulation is added for clarity.

12 In subsection (b)(4)(i) of this section, the phrase "to publicize its contents"
13 is substituted for the former phrase "to bring its contents to the attention
14 of the general public" for clarity and brevity.

15 In subsection (b)(4)(ii)3 of this section, the reference to each "agency of the
16 State or a political subdivision" is substituted for the former reference to
17 each "State or local agency" for clarity and consistency throughout this
18 section and this subtitle.

19 Defined terms: "Emergency" § 14-101

20 "Emergency management" § 14-101

21 "Political subdivision" § 14-101

22 "State" § 1-101

23 14-109. LOCAL ORGANIZATIONS FOR EMERGENCY MANAGEMENT.

24 (A) ESTABLISHED.

25 EACH POLITICAL SUBDIVISION SHALL:

26 (1) ESTABLISH A LOCAL ORGANIZATION FOR EMERGENCY
27 MANAGEMENT IN ACCORDANCE WITH THE STATE EMERGENCY MANAGEMENT PLAN
28 AND PROGRAM; AND

29 (2) PARTICIPATE IN FEDERAL PROGRAMS FOR EMERGENCY
30 MANAGEMENT.

31 (B) DIRECTORS OF LOCAL ORGANIZATIONS FOR EMERGENCY MANAGEMENT.

32 (1) ON RECOMMENDATION OF THE MAYOR, EXECUTIVE, OR GOVERNING
33 BODY OF THE POLITICAL SUBDIVISION, THE GOVERNOR SHALL APPOINT A DIRECTOR
34 OF EMERGENCY MANAGEMENT FOR EACH LOCAL ORGANIZATION FOR EMERGENCY
35 MANAGEMENT.

1 (2) EACH DIRECTOR OF A LOCAL ORGANIZATION FOR EMERGENCY
2 MANAGEMENT IS DIRECTLY RESPONSIBLE FOR THE ORGANIZATION,
3 ADMINISTRATION, AND OPERATION OF THE LOCAL ORGANIZATION FOR EMERGENCY
4 MANAGEMENT.

5 (3) EACH DIRECTOR OF A LOCAL ORGANIZATION FOR EMERGENCY
6 MANAGEMENT IS SUBJECT TO THE DIRECTION AND CONTROL OF THE MAYOR,
7 EXECUTIVE, OR GOVERNING BODY OF THE POLITICAL SUBDIVISION, UNDER THE
8 GENERAL POWER OF THE GOVERNOR.

9 (C) PERSONNEL.

10 (1) SUBJECT TO THE BUDGET OF THE POLITICAL SUBDIVISION, EACH
11 LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT SHALL INCLUDE THOSE
12 PROGRAMS AND POSITIONS RECOMMENDED PERIODICALLY BY MEMA TO MEET
13 FEDERAL AND STATE STANDARDS.

14 (2) (I) IN A COUNTY IN WHICH THERE IS A LOCAL MERIT SYSTEM OR
15 CLASSIFIED SERVICE FOR THE GENERAL EMPLOYEES OF THE COUNTY, THE
16 EMPLOYEES AND OFFICERS OF THE LOCAL ORGANIZATION FOR EMERGENCY
17 MANAGEMENT ARE INCLUDED IN AND SUBJECT TO ALL RIGHTS, DUTIES,
18 PRIVILEGES, AND RESPONSIBILITIES OF THAT SYSTEM OR SERVICE.

19 (II) SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT APPLY TO
20 THE DIRECTOR OF THE LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT.

21 (3) (I) IF A COUNTY DOES NOT HAVE A LOCAL MERIT SYSTEM OR
22 CLASSIFIED SERVICE, THE GOVERNING BODY OF THE COUNTY, OR THE BOARD OF
23 ESTIMATES OF BALTIMORE CITY, MAY INCLUDE BY REGULATION THE EMPLOYEES
24 AND OFFICERS OF THE LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT IN
25 THE CLASSIFIED SERVICE OF THE STATE PERSONNEL MANAGEMENT SYSTEM.

26 (II) SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT APPLY TO
27 THE DIRECTOR OF THE LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT.

28 (III) 1. EXCEPT AS OTHERWISE PROVIDED BY LAW, DURING THE
29 EFFECTIVE PERIOD OF THE REGULATION THE EMPLOYEES AND OFFICERS ARE
30 SUBJECT TO THE RIGHTS, DUTIES, PRIVILEGES, AND RESPONSIBILITIES OF DIVISION
31 I OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

32 2. THE GOVERNING BODY OF THE COUNTY OR THE MAYOR
33 OF BALTIMORE IS THE APPOINTING OFFICER UNDER DIVISION I OF THE STATE
34 PERSONNEL AND PENSIONS ARTICLE.

35 (4) PARAGRAPH (3) OF THIS SUBSECTION DOES NOT REMOVE FROM THE
36 GOVERNING BODY OF A COUNTY OR FROM THE MAYOR AND CITY COUNCIL OF
37 BALTIMORE THE POWER TO ESTABLISH AND REGULATE THE COMPENSATION,
38 VACATION ALLOWANCE, OR SICK LEAVE OF ALL EMPLOYEES AND OFFICERS OF THE
39 LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT IN THE COUNTY OR
40 BALTIMORE CITY.

1 (D) FUNDING.

2 EACH POLITICAL SUBDIVISION MAY MAKE APPROPRIATIONS IN THE MANNER
3 PROVIDED BY LAW TO PAY THE EXPENSES OF ITS LOCAL ORGANIZATION FOR
4 EMERGENCY MANAGEMENT.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 16A, §§ 7(a)(1), (b), and (c) and 9(a).

7 In subsection (c)(2)(i) and (3)(i) of this section, the former reference to
8 "Baltimore City" is deleted as included in the reference to a "county".

9 In subsection (c)(2)(i) and (4) of this section, the reference to employees of
10 the "county" is substituted for the former reference to employees of the
11 "political subdivision" for clarity and consistency within the subsection.
12 The political subdivision covered by both provisions is a county.

13 In subsection (c)(3)(i) and (iii)2 and (4) of this section, the reference to the
14 "governing body of the county" is substituted for the former reference to
15 the "county commissioners or county council" for brevity and consistency
16 throughout this article.

17 Defined terms: "County" § 1-101

18 "Emergency" § 14-101

19 "Emergency management" § 14-101

20 "Local organization for emergency management" § 14-101

21 "MEMA" § 14-101

22 "Political subdivision" § 14-101

23 14-110. LOCAL EMERGENCY PLANS.

24 (A) EMERGENCY PREPAREDNESS PLAN FOR HAZARDOUS MATERIALS.

25 (1) EACH COUNTY SHALL:

26 (I) PREPARE AN EMERGENCY PREPAREDNESS PLAN FOR
27 RESPONDING TO AN EMERGENCY THAT INVOLVES HAZARDOUS MATERIALS OR
28 CONTROLLED HAZARDOUS SUBSTANCES, AS DEFINED IN THE ENVIRONMENT
29 ARTICLE; AND

30 (II) REVIEW THE PLAN ANNUALLY AND SUBMIT ANY CHANGES TO
31 THE DIRECTOR SO THAT THE DIRECTOR MAY MAINTAIN CURRENT AND ACCURATE
32 INFORMATION ABOUT THE PLAN.

33 (2) EACH COUNTY SHALL SUBMIT ITS EMERGENCY PREPAREDNESS
34 PLAN TO THE DIRECTOR ON OR BEFORE OCTOBER 1, 1998.

35 (B) RADIOLOGICAL EMERGENCY RESPONSE PLAN.

1 (1) A LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT SHALL
2 SUBMIT TO THE DIRECTOR A RADIOLOGICAL EMERGENCY RESPONSE PLAN IF THE
3 POLITICAL SUBDIVISION IN WHICH THE LOCAL ORGANIZATION FOR EMERGENCY
4 MANAGEMENT IS LOCATED:

5 (I) FALLS WITHIN THE PLUME OR INGESTION ZONE OF A
6 COMMERCIAL NUCLEAR REACTOR; OR

7 (II) MIGHT REASONABLY BE EXPECTED TO HOST EVACUEES FROM
8 ANOTHER JURISDICTION IN A PLUME OR INGESTION ZONE.

9 (2) THE RADIOLOGICAL EMERGENCY RESPONSE PLAN SHALL PROVIDE
10 FOR THE EVACUATION OF THE RESIDENTS OF THE POLITICAL SUBDIVISION AS A
11 RESULT OF AN EMERGENCY CAUSED BY A DANGEROUS RELEASE OF RADIATION.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 16A, §§ 4(d) and 7(a)(2).

14 In the introductory language of subsection (a)(1) and in subsection (a)(2) of
15 this section, the former reference to "Baltimore City" is deleted as included
16 in the defined term "county".

17 In the introductory language of subsection (b)(1) of this section, the
18 reference to a "political subdivision" is substituted for the former reference
19 to a "jurisdiction" for clarity and to use the defined term.

20 In subsection (b)(2) of this section, the former reference to a "major
21 disaster" is deleted as included in the defined term "emergency".

22 Defined terms: "County" § 1-101

23 "Director" § 14-101

24 "Emergency" § 14-101

25 "Local organization for emergency management" § 14-101

26 "Political subdivision" § 14-101

27 14-111. LOCAL STATE OF EMERGENCY.

28 (A) DECLARATION.

29 ONLY THE PRINCIPAL EXECUTIVE OFFICER OF A POLITICAL SUBDIVISION MAY
30 DECLARE A LOCAL STATE OF EMERGENCY.

31 (B) DURATION.

32 (1) EXCEPT WITH THE CONSENT OF THE GOVERNING BODY OF THE
33 POLITICAL SUBDIVISION, A LOCAL STATE OF EMERGENCY MAY NOT CONTINUE OR BE
34 RENEWED FOR LONGER THAN 7 DAYS.

35 (2) AN ORDER OR PROCLAMATION THAT DECLARES, CONTINUES, OR
36 TERMINATES A LOCAL STATE OF EMERGENCY SHALL BE:

1 (I) GIVEN PROMPT AND GENERAL PUBLICITY; AND
2 (II) FILED PROMPTLY WITH THE CHIEF LOCAL RECORDS-KEEPING
3 AGENCY.

4 (C) EFFECT OF DECLARATION.

5 DECLARATION OF A LOCAL STATE OF EMERGENCY:

6 (1) ACTIVATES THE RESPONSE AND RECOVERY ASPECTS OF ANY
7 APPLICABLE LOCAL STATE OF EMERGENCY PLAN; AND

8 (2) AUTHORIZES THE PROVISION OF AID AND ASSISTANCE UNDER THE
9 APPLICABLE PLAN.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 16A, § 6C.

12 In the introductory language of subsection (c) of this section, the former
13 reference to the "effect" of a declaration is deleted as implicit.

14 Defined terms: "Emergency" § 14-101

15 "Political subdivision" § 14-101

16 14-112. EMERGENCY EXPENDITURES; USE OF EXISTING RESOURCES.

17 (A) EMERGENCY EXPENDITURES.

18 (1) EXPENDITURES NECESSITATED BY EMERGENCIES SHALL FIRST BE
19 MADE USING MONEY REGULARLY APPROPRIATED TO STATE AND LOCAL AGENCIES.

20 (2) IF THE GOVERNOR FINDS THAT REGULARLY APPROPRIATED MONEY
21 IS INADEQUATE TO COPE WITH AN EMERGENCY, THE BOARD OF PUBLIC WORKS MAY
22 MAKE CONTINGENCY MONEY AVAILABLE IN ACCORDANCE WITH THE STATE
23 BUDGET.

24 (B) FEDERAL MONEY.

25 THE STATE MAY:

26 (1) ACCEPT ANY ALLOTMENT OF FEDERAL MONEY AND COMMODITIES
27 AND MANAGE AND DISPOSE OF THEM IN WHATEVER MANNER MAY BE REQUIRED BY
28 FEDERAL LAW; AND

29 (2) TAKE ADVANTAGE OF THE FEDERAL DISASTER RELIEF ACT OF 1974
30 AND ANY AMENDMENTS OR SUPPLEMENTS TO IT, AND ANY OTHER FEDERAL LAW
31 THAT PROVIDES GRANTS AND PUBLIC ASSISTANCE FOR THE PURPOSES OF THIS
32 SUBTITLE AND SUBTITLES 2 AND 4 OF THIS TITLE.

33 (C) USE OF EXISTING RESOURCES.

1 (1) IN CARRYING OUT THIS SUBTITLE, THE GOVERNOR, ADJUTANT
2 GENERAL, AND EXECUTIVE OFFICERS OR GOVERNING BODIES OF THE POLITICAL
3 SUBDIVISIONS SHALL USE THE SERVICES, EQUIPMENT, SUPPLIES, AND FACILITIES
4 OF EXISTING AGENCIES AND UNITS OF THE STATE AND THE POLITICAL
5 SUBDIVISIONS TO THE MAXIMUM EXTENT PRACTICABLE.

6 (2) THE OFFICERS AND PERSONNEL OF THE AGENCIES AND UNITS OF
7 THE STATE AND THE POLITICAL SUBDIVISIONS SHALL COOPERATE WITH AND
8 EXTEND SERVICES AND FACILITIES TO THE GOVERNOR, ADJUTANT GENERAL,
9 DIRECTOR, AND THE LOCAL ORGANIZATIONS FOR EMERGENCY MANAGEMENT ON
10 REQUEST.

11 (3) AT THE DIRECTION OF THE GOVERNOR, THE MARYLAND NATIONAL
12 GUARD SHALL USE ITS SERVICES, EQUIPMENT, SUPPLIES, AND FACILITIES IN
13 LIFE-THREATENING EMERGENCIES THAT ARE BEYOND THE CAPABILITIES OF LOCAL
14 AUTHORITIES.

15 (D) GIFTS, GRANTS, OR LOANS FOR EMERGENCY MANAGEMENT.

16 (1) IF THE FEDERAL GOVERNMENT, ANOTHER STATE, OR AN AGENCY OR
17 OFFICER OF THE FEDERAL GOVERNMENT OR ANOTHER STATE OFFERS TO THIS
18 STATE OR A POLITICAL SUBDIVISION SERVICES, EQUIPMENT, SUPPLIES, MATERIALS,
19 OR MONEY BY WAY OF GIFT, GRANT, OR LOAN FOR PURPOSES OF EMERGENCY
20 MANAGEMENT, THE STATE ACTING THROUGH THE GOVERNOR, OR THE POLITICAL
21 SUBDIVISION ACTING WITH THE CONSENT OF THE GOVERNOR AND THROUGH ITS
22 EXECUTIVE OFFICER OR GOVERNING BODY, MAY:

23 (I) ACCEPT THE OFFER; AND

24 (II) AUTHORIZE AN OFFICER OF THIS STATE OR THE POLITICAL
25 SUBDIVISION TO RECEIVE THE SERVICES, EQUIPMENT, SUPPLIES, MATERIALS, OR
26 MONEY.

27 (2) IF A PERSON OFFERS TO THE STATE OR A POLITICAL SUBDIVISION
28 AID OR ASSISTANCE, THE STATE OR POLITICAL SUBDIVISION MAY ACCEPT THE AID
29 AND ASSISTANCE IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 16A, §§ 10 and 9(b), (c), (d), and (e).

32 In subsection (a)(2) of this section, the reference to the "State" budget is
33 added for clarity.

34 Also in subsection (a)(2) of this section, the former reference to a
35 "particular" emergency is deleted as surplusage.

36 In subsection (b)(2) of this section, the reference to "this subtitle and
37 Subtitles 2 and 4 of this title" is substituted for the former reference to
38 "this article" for accuracy. Former Article 16A is revised in this subtitle and
39 Subtitles 2 and 4 of this title.

1 %In subsection (c)(1) and (2) of this section, the former references to
2 "departments" and "offices" are deleted as included in the references to
3 "agencies" and "units" of the State.

4 In subsection (c)(2) of this section, the reference to "local organizations for
5 emergency management" is substituted for the former reference to
6 "emergency management organizations throughout the State" for clarity.

7 In subsection (d)(1) of this section, the reference to "services, equipment,
8 supplies, materials, or money" is substituted for the former reference to
9 "such aid and assistance" for clarity.

10 Also in subsection (d)(1) of this section, the reference to "money" is
11 substituted for the former reference to "funds" for consistency with
12 terminology used throughout this article.

13 Defined terms: "Director" § 14-101

14 "Emergency" § 14-101

15 "Emergency management" § 14-101

16 "Local organization for emergency management" § 14-101

17 "Political subdivision" § 14-101

18 "State" § 1-101

19 14-113. ENFORCEMENT.

20 (A) BY EMERGENCY MANAGEMENT AGENCY.

21 EACH EMERGENCY MANAGEMENT AGENCY ESTABLISHED UNDER THIS
22 SUBTITLE AND ITS OFFICERS SHALL EXECUTE AND ENFORCE THE ORDERS, RULES,
23 AND REGULATIONS MADE BY THE GOVERNOR UNDER AUTHORITY OF THIS SUBTITLE.

24 (B) BY LAW ENFORCEMENT AND HEALTH OFFICERS.

25 WITH RESPECT TO THE THREAT OR OCCURRENCE OF AN ENEMY ATTACK, ACT
26 OF TERRORISM, OR PUBLIC HEALTH CATASTROPHE, EACH LAW ENFORCEMENT
27 OFFICER OF THE STATE OR A POLITICAL SUBDIVISION AND EACH HEALTH OFFICER
28 OF A POLITICAL SUBDIVISION SHALL EXECUTE AND ENFORCE THE ORDERS, RULES,
29 AND REGULATIONS MADE BY THE GOVERNOR UNDER AUTHORITY OF THIS SUBTITLE.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 16A, § 12.

32 In subsection (b) of this section, the reference to "the threat or occurrence
33 of an enemy attack, act of terrorism, or public health catastrophe" is
34 substituted for the former reference to "an emergency under § 3(d)(2) of
35 this subtitle" for clarity. *See* § 14-101(c)(2) of this subtitle.

36 14-114. PROHIBITED ACTS; PENALTIES.

37 (A) VIOLATION OF ORDER, RULE, OR REGULATION PROHIBITED.

1 A PERSON MAY NOT VIOLATE AN ORDER, RULE, OR REGULATION ISSUED UNDER
2 THE AUTHORITY OF THIS SUBTITLE.

3 (B) PENALTIES.

4 (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
5 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
6 EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

7 (2) A PERSON WHO WILLFULLY VIOLATES THIS SECTION IS GUILTY OF A
8 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
9 EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 16A, § 12A.

12 Defined term: "Person" § 1-101

13 14-115. SHORT TITLE.

14 THIS SUBTITLE MAY BE CITED AS THE MARYLAND EMERGENCY MANAGEMENT
15 AGENCY ACT.

16 REVISOR'S NOTE: This section formerly was Art. 16A, § 1.

17 No changes are made.

18 Defined term: "Emergency management" § 14-101

19 GENERAL REVISOR'S NOTE TO SUBTITLE:

20 Former Art. 16A, § 11, which provided for the severability of invalid provisions of
21 this subtitle, is deleted as duplicative of Art. 1, § 23, which provides that "[t]he
22 provisions of all statutes enacted after July 1, 1973 are severable unless the statute
23 specifically provides that its provisions are not severable".

24 SUBTITLE 2. CIVIL RELIEF DURING EMERGENCY PERIODS.

25 14-201. DEFINITIONS.

26 (A) IN GENERAL.

27 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

28 REVISOR'S NOTE: This subsection is new language added as the standard
29 introductory language to a definition section.

30 (B) COURT.

31 "COURT" MEANS A COURT OF COMPETENT JURISDICTION OF THE STATE,
32 WHETHER OR NOT A COURT OF RECORD.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 16A, § 14(f).

3 The word "means" is substituted for the former word "includes" because
4 the definition is meant to be exhaustive, not illustrative. *See* Art. 1, § 30.

5 (C) PERSON IN EMERGENCY MANAGEMENT SERVICE.

6 "PERSON IN EMERGENCY MANAGEMENT SERVICE" MEANS A PERSON WHO,
7 DURING THE EMERGENCY PERIOD TO WHICH THIS SUBTITLE IS APPLICABLE, IS A
8 MEMBER OF OR WORKS FOR THE MARYLAND EMERGENCY MANAGEMENT AGENCY
9 OR A LOCAL EMERGENCY MANAGEMENT ORGANIZATION.

10 REVISOR'S NOTE: This subsection is new language derived without
11 substantive change from former Art. 16A, § 14(a) and, as it related to the
12 applicability of the definitions, (c).

13 The phrase "during the emergency period to which this subtitle is
14 applicable" is added to reflect the substance of former Art. 16A, § 14(c),
15 which stated that the definitions in former § 14(a) and (b) applied only
16 during the period when the Governor proclaimed a stated area to be within
17 an emergency or disaster area. *See* § 14-203 of this subtitle.

18 The reference to the "Maryland Emergency Management Agency" is
19 substituted for the former reference to the "Maryland emergency
20 management organization" to reflect the proper name of the agency.

21 Defined term: "Person" § 1-101

22 (D) PERSON SUFFERING INJURY OR DAMAGE.

23 "PERSON SUFFERING INJURY OR DAMAGE" MEANS A PERSON WHO, DURING
24 THE EMERGENCY PERIOD TO WHICH THIS SUBTITLE IS APPLICABLE:

25 (1) SUFFERS SERIOUS PERSONAL INJURY;

26 (2) SUFFERS EXTENSIVE DAMAGE TO PROPERTY OWNED BY THE
27 PERSON; OR

28 (3) HAS AN IMMEDIATE FAMILY MEMBER WHO:

29 (I) DIES;

30 (II) SUFFERS SERIOUS PERSONAL INJURY; OR

31 (III) SUFFERS EXTENSIVE DAMAGE TO PROPERTY OWNED BY THE
32 FAMILY MEMBER.

33 REVISOR'S NOTE: This subsection is new language derived without
34 substantive change from former Art. 16A, § 14(b) and, as it related to the
35 applicability of the definitions, (c).

1 %In the introductory language of this subsection, the phrase "during the
2 emergency period to which this subtitle is applicable" is added to reflect
3 the substance of former Art. 16A, § 14(c), which stated that the definitions
4 in former § 14(a) and (b) applied only during the period when the Governor
5 proclaimed a stated area to be within an emergency or disaster area. *See* §
6 14-203 of this subtitle.

7 In items (2) and (3)(iii) of this subsection, the former reference to
8 "property" damage to property is deleted as redundant.

9 REVISOR'S NOTE TO SECTION:

10 Former Art. 16A, § 14(e), which defined "person" to include individuals,
11 partnerships, corporations, and other forms of business associations, is
12 deleted as duplicative of the definition in § 1-101 of this article. In
13 addition, the term "person" is not used throughout this subtitle only with
14 reference to "the holder of any right alleged to exist" against a person in
15 emergency management service or a person suffering injury or damage.
16 The former definition therefore was too limited and is deleted for that
17 reason as well.

18 14-202. LEGISLATIVE POLICY.

19 (A) PURPOSES OF SUBTITLE.

20 THE PURPOSES OF THIS SUBTITLE ARE:

21 (1) TO PROVIDE FOR, STRENGTHEN, AND EXPEDITE NATIONAL DEFENSE
22 WHEN EMERGENCY CONDITIONS THREATEN THE PEACE AND SECURITY OF THE
23 UNITED STATES AND THE STATE; AND

24 (2) TO ENABLE THE STATE TO FULFILL MORE SUCCESSFULLY THE
25 REQUIREMENTS OF NATIONAL DEFENSE.

26 (B) EFFECTS OF SUBTITLE.

27 TO ACHIEVE THESE PURPOSES, THIS SUBTITLE TEMPORARILY SUSPENDS:

28 (1) ENFORCEMENT OF CIVIL LIABILITIES AGAINST PERSONS IN
29 EMERGENCY MANAGEMENT SERVICE TO ENABLE THEM TO DEVOTE THEIR ENTIRE
30 ENERGY TO THE EMERGENCY MANAGEMENT NEEDS OF THE STATE AND THE UNITED
31 STATES;

32 (2) ENFORCEMENT OF CIVIL LIABILITIES AGAINST PERSONS SUFFERING
33 INJURY OR DAMAGE TO ENABLE THEM TO DEVOTE THEIR ENTIRE ENERGY TO THE
34 CURE OR IMPROVEMENT OF THE INJURIES OR DAMAGE SUFFERED; AND

35 (3) LEGAL PROCEEDINGS AND TRANSACTIONS THAT MAY PREJUDICE
36 THE CIVIL RIGHTS OF PERSONS IN EMERGENCY MANAGEMENT SERVICE OR PERSONS
37 SUFFERING INJURY OR DAMAGE DURING THE EMERGENCY PERIOD TO WHICH THIS
38 SUBTITLE IS APPLICABLE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 16A, § 13.

3 In subsection (b)(1) of this section, the reference to the "United States" is
4 substituted for the former reference to the "nation" for consistency with
5 subsection (a)(1) of this section.

6 In subsection (b)(3) of this section, the reference to "persons suffering
7 injury or damage" is added for consistency within this section and this
8 subtitle, which covers both persons in emergency management service and
9 persons suffering injury or damage.

10 Defined terms: "Person in emergency management service" § 14-201

11 "Person suffering injury or damage" § 14-201

12 14-203. SCOPE OF SUBTITLE; PERIOD OF APPLICABILITY.

13 (A) SCOPE OF SUBTITLE.

14 THIS SUBTITLE APPLIES TO PROCEEDINGS IN ANY COURT.

15 (B) PERIOD OF APPLICABILITY.

16 THIS SUBTITLE APPLIES ONLY DURING THE EFFECTIVE PERIOD OF AN
17 OFFICIAL PROCLAMATION BY THE GOVERNOR THAT DECLARES A STATED AREA TO
18 BE WITHIN AN ACTUAL OR THREATENED EMERGENCY OR DISASTER AREA.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 16A, § 14(c), except as it related to the
21 applicability of the definitions, and the first clause of § 15(a).

22 In subsection (a) of this section, the former reference to proceedings
23 "commenced" in any court is deleted as surplusage.

24 For the revision of the definitions in former Art. 16A, § 14(a) and (b), *see* §
25 14-201(c) and (d) of this subtitle.

26 Defined term: "Court" § 14-201

27 14-204. ENFORCEMENT OF PROCEEDINGS.

28 (A) IN GENERAL.

29 THIS SUBTITLE SHALL BE ENFORCED IN ACCORDANCE WITH:

30 (1) THE USUAL PROCEDURES OF THE COURT IN WHICH THE
31 PROCEEDINGS ARE PENDING; OR

32 (2) THE RULES ADOPTED BY THE COURT IN WHICH THE PROCEEDINGS
33 ARE PENDING.

1 (B) MOTION REQUIRED WHEN NO PROCEEDING PENDING.

2 IF THIS SUBTITLE REQUIRES THAT A MOTION BE FILED IN A COURT IN WHICH
3 NO PROCEEDING IS PENDING WITH RESPECT TO THE MATTER, THE MOTION MAY BE
4 FILED IN ANY COURT.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 16A, § 15(b) and the second clause of (a).

7 In subsection (a)(1) of this section, the reference to the procedures of "the
8 court in which the proceedings are pending" is substituted for the former
9 reference to the procedure "obtaining in such court" for clarity.

10 Also in subsection (a)(1) of this section, the former reference to the "forms
11 of" procedures is deleted for brevity.

12 In subsection (a)(2) of this section, the reference to the rules "adopted" by
13 the court is substituted for the former reference to the rules "prescribed"
14 for consistency with terminology used in revised articles of the Code.

15 In subsection (b) of this section, the references to a "motion ... filed" are
16 substituted for the former references to an "application ... made" for
17 clarity.

18 Also in subsection (b) of this section, the reference to a proceeding
19 "pending" is substituted for the former reference to a proceeding
20 "commenced" for clarity.

21 Defined term: "Court" § 14-201

22 14-205. EFFECT OF STAY, POSTPONEMENT, OR SUSPENSION ON SURETIES,
23 GUARANTORS, AND ENDORSERS.

24 (A) IN GENERAL.

25 IF IN ACCORDANCE WITH THIS SUBTITLE A COURT STAYS, POSTPONES, OR
26 SUSPENDS THE ENFORCEMENT OF AN OBLIGATION OR LIABILITY, THE
27 PROSECUTION OF A SUIT OR PROCEEDING, THE ENTRY OR ENFORCEMENT OF AN
28 ORDER, WRIT, JUDGMENT, OR DECREE, OR THE PERFORMANCE OF ANY OTHER ACT,
29 THE COURT MAY ALSO GRANT THE SAME STAY, POSTPONEMENT, OR SUSPENSION TO
30 A SURETY, GUARANTOR, ENDORSER, OR OTHER PERSON SUBJECT TO THE SAME
31 OBLIGATION OR LIABILITY, THE PERFORMANCE OR ENFORCEMENT OF WHICH IS
32 STAYED, POSTPONED, OR SUSPENDED.

33 (B) VACATION OF JUDGMENT OR DECREE.

34 IF IN ACCORDANCE WITH THIS SUBTITLE A COURT VACATES OR SETS ASIDE ALL
35 OR PART OF A JUDGMENT OR DECREE, THE COURT MAY ALSO VACATE OR SET ASIDE
36 ALL OR PART OF THE JUDGMENT OR DECREE AS TO A SURETY, GUARANTOR,

1 ENDORSER, OR OTHER PERSON LIABLE UNDER THE CONTRACT OR LIABILITY FOR
2 THE ENFORCEMENT OF WHICH THE JUDGMENT OR DECREE WAS ENTERED.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 16A, § 16.

5 In subsections (a) and (b) of this section, the former phrase "in the
6 discretion of the court" is deleted as included in the authority that "the
7 court may" take specified actions.

8 Defined terms: "Court" § 14-201

9 "Person" § 1-101

10 14-206. ADMINISTRATIVE REMEDIES.

11 (A) ATTEMPT TO DELAY ENFORCEMENT OF CIVIL RIGHT.

12 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, IF IN A
13 PROCEEDING TO ENFORCE A CIVIL RIGHT IN A COURT THE COURT FINDS THAT AN
14 INTEREST, PROPERTY, OR CONTRACT WAS TRANSFERRED OR ACQUIRED WITH
15 INTENT TO DELAY THE JUST ENFORCEMENT OF THE CIVIL RIGHT BY TAKING
16 ADVANTAGE OF THIS SUBTITLE, THE COURT SHALL ENTER AN APPROPRIATE
17 JUDGMENT OR ISSUE AN APPROPRIATE ORDER.

18 (B) INTERLOCUTORY ORDERS.

19 ON ITS OWN INITIATIVE OR OTHERWISE, A COURT MAY REVOKE, MODIFY, OR
20 EXTEND AN INTERLOCUTORY ORDER ISSUED BY THE COURT UNDER THIS SUBTITLE
21 ON NOTICE TO THE AFFECTED PARTIES AS THE COURT REQUIRES.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 16A, §§ 28 and 30.

24 In subsection (a) of this section, the phrase "the court finds" is substituted
25 for the former reference to "it is made to appear to the satisfaction of the
26 court" for brevity and consistency throughout this subtitle.

27 Also in subsection (a) of this section, the former phrase "to the contrary" is
28 deleted as surplusage.

29 In subsection (b) of this section, the reference to the court's own "initiative"
30 is substituted for the former reference to the court's own "motion" for
31 clarity.

32 Defined term: "Court" § 14-201

33 14-207. PERIODS OF LIMITATIONS.

34 (A) IN GENERAL.

1 (1) THE PERIOD DURING WHICH A PERSON IS A PERSON IN EMERGENCY
 2 MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE IS NOT
 3 INCLUDED IN COMPUTING ANY PERIOD OF LIMITATIONS APPLICABLE TO BRINGING
 4 AN ACTION BY OR AGAINST:

5 (I) THE PERSON IN EMERGENCY MANAGEMENT SERVICE;

6 (II) THE PERSON SUFFERING INJURY OR DAMAGE; OR

7 (III) AN HEIR, EXECUTOR, ADMINISTRATOR, OR ASSIGN OF:

8 1. THE PERSON IN EMERGENCY MANAGEMENT SERVICE; OR

9 2. THE PERSON SUFFERING INJURY OR DAMAGE.

10 (2) PARAGRAPH (1) OF THIS SUBSECTION APPLIES WHETHER THE CAUSE
 11 OF ACTION ACCRUES BEFORE THE PERSON BECOMES, OR DURING THE PERIOD THAT
 12 THE PERSON IS, A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON
 13 SUFFERING INJURY OR DAMAGE.

14 (B) PRESUMPTION WHEN PERSON REPORTED MISSING.

15 (1) (I) IF A PERSON IN EMERGENCY MANAGEMENT SERVICE IS
 16 REPORTED MISSING, THE PERSON IS PRESUMED TO CONTINUE TO BE A PERSON IN
 17 EMERGENCY MANAGEMENT SERVICE UNTIL THE PERSON IS ACCOUNTED FOR.

18 (II) IF A PERSON SUFFERING INJURY OR DAMAGE IS REPORTED
 19 MISSING, THE PERSON IS PRESUMED TO CONTINUE TO BE A PERSON SUFFERING
 20 INJURY OR DAMAGE UNTIL THE PERSON IS ACCOUNTED FOR.

21 (2) A PERIOD OF LIMITATIONS THAT BEGINS OR ENDS WITH THE DEATH
 22 OF A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING
 23 INJURY OR DAMAGE DOES NOT BEGIN OR END UNTIL THE DEATH:

24 (I) IS IN FACT CONFIRMED; OR

25 (II) IS FOUND BY A COURT.

26 REVISOR'S NOTE: This section is new language derived without substantive
 27 change from former Art. 16A, §§ 21, 29, and 14(d).

28 In the introductory language of subsection (a)(1) of this section, the
 29 reference to "any period of limitations" is substituted for the former
 30 reference to "any period now or hereafter to be limited by any law" for
 31 brevity.

32 In subsections (a)(1) and (2) and (b)(1)(i) and (ii) of this section, the
 33 references to a "person in emergency management service" and a "person
 34 suffering injury or damage" are substituted for the former references to
 35 "being in such category" and "such category" for clarity and to use the
 36 defined terms.

1 %In subsection (b)(2)(i) of this section, the reference to the death being
2 "confirmed" is substituted for the former reference to the death being "in
3 fact found" for clarity and brevity.

4 In subsection (b)(2)(ii) of this section, the former reference to a court "of
5 competent jurisdiction" is deleted in light of the defined term "court".

6 Defined terms: "Court" § 14-201

7 "Person" § 1-101

8 "Person in emergency management service" § 14-201

9 "Person suffering injury or damage" § 14-201

10 14-208. FAILURE OF PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON
11 SUFFERING INJURY OR DAMAGE TO APPEAR.

12 (A) FAILURE OF DEFENDANT TO APPEAR.

13 (1) BEFORE A COURT ENTERS JUDGMENT IN A PROCEEDING IN ANY
14 COURT IN WHICH THE DEFENDANT FAILS TO APPEAR:

15 (I) THE PLAINTIFF SHALL FILE IN THE COURT AN AFFIDAVIT THAT
16 SETS FORTH FACTS THAT SHOW THAT THE DEFENDANT IS NOT A PERSON IN
17 EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE;
18 OR

19 (II) IF THE PLAINTIFF IS UNABLE TO FILE AN AFFIDAVIT IN
20 ACCORDANCE WITH ITEM (I) OF THIS PARAGRAPH, THE PLAINTIFF SHALL FILE AN
21 AFFIDAVIT THAT STATES THAT:

22 1. THE DEFENDANT IS A PERSON IN EMERGENCY
23 MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE; OR

24 2. THE PLAINTIFF IS UNABLE TO DETERMINE WHETHER THE
25 DEFENDANT IS A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON
26 SUFFERING INJURY OR DAMAGE.

27 (2) IF THE PLAINTIFF DOES NOT FILE AN AFFIDAVIT IN ACCORDANCE
28 WITH PARAGRAPH (1)(I) OF THIS SUBSECTION, JUDGMENT MAY NOT BE ENTERED
29 UNTIL THE COURT:

30 (I) ORDERS ENTRY OF THE JUDGMENT; AND

31 (II) APPOINTS AN ATTORNEY TO REPRESENT THE DEFENDANT IN
32 ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION.

33 (3) THE COURT ON MOTION SHALL APPOINT AN ATTORNEY TO
34 REPRESENT THE DEFENDANT AND TO PROTECT THE DEFENDANT'S INTERESTS, IF
35 THE DEFENDANT IS A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON
36 SUFFERING INJURY OR DAMAGE.

1 (4) UNLESS THE COURT FINDS THAT THE DEFENDANT IS NOT A PERSON
2 IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR
3 DAMAGE, THE COURT BEFORE ENTERING JUDGMENT MAY REQUIRE THAT THE
4 PLAINTIFF FILE A BOND APPROVED BY THE COURT TO INDEMNIFY THE DEFENDANT
5 AGAINST ANY LOSS OR DAMAGE THAT THE DEFENDANT MAY SUFFER BECAUSE OF
6 THE JUDGMENT IF ALL OR PART OF THE JUDGMENT IS LATER SET ASIDE.

7 (5) THE COURT MAY ISSUE ANY OTHER ORDER OR ENTER ANY
8 JUDGMENT THAT THE COURT CONSIDERS NECESSARY TO PROTECT THE RIGHTS OF
9 THE DEFENDANT UNDER THIS SUBTITLE.

10 (B) FAILURE OF PARTY TO APPEAR.

11 (1) IF A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON
12 SUFFERING INJURY OR DAMAGE IS PARTY TO A PROCEEDING AND DOES NOT
13 PERSONALLY APPEAR IN THE PROCEEDING OR IS NOT REPRESENTED BY AN
14 AUTHORIZED ATTORNEY, THE COURT MAY:

15 (I) APPOINT AN ATTORNEY TO REPRESENT THE PERSON;

16 (II) REQUIRE A BOND TO BE FILED LIKE THE BOND REQUIRED
17 UNDER SUBSECTION (A)(3) OF THIS SECTION; AND

18 (III) ISSUE AN ORDER TO PROTECT THE RIGHTS OF THE PERSON.

19 (2) AN ATTORNEY APPOINTED UNDER THIS SUBSECTION MAY NOT
20 WAIVE ANY RIGHT OF THE PERSON FOR WHOM THE ATTORNEY IS APPOINTED OR
21 BIND THE PERSON BY THE ATTORNEY'S ACTS.

22 (C) OPENING JUDGMENT ENTERED AGAINST DEFENDANT.

23 (1) NOT LATER THAN 90 DAYS AFTER A DEFENDANT CEASED TO BE A
24 PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR
25 DAMAGE, THE DEFENDANT OR LEGAL REPRESENTATIVE OF THE DEFENDANT MAY
26 FILE WITH THE COURT THAT ENTERED A JUDGMENT AGAINST THE DEFENDANT IN A
27 PROCEEDING SUBJECT TO THIS SECTION A MOTION TO OPEN THE JUDGMENT
28 AGAINST THE DEFENDANT IF:

29 (I) THE JUDGMENT WAS ENTERED DURING THE PERIOD THAT THE
30 DEFENDANT WAS, OR WITHIN 30 DAYS AFTER THE DEFENDANT CEASED TO BE, A
31 PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR
32 DAMAGE; AND

33 (II) THE COURT FINDS THAT THE DEFENDANT:

34 1. WAS PREJUDICED IN DEFENDING AGAINST THE ACTION
35 BECAUSE THE PERSON WAS A PERSON IN EMERGENCY MANAGEMENT SERVICE OR
36 PERSON SUFFERING INJURY OR DAMAGE; AND

1 %In subsections (a)(3) and (4) and (c)(1) of this section, the reference to the
2 defendant being "a person in emergency management service or person
3 suffering injury or damage" is substituted for the former reference to the
4 defendant being "in such category" for clarity and to use the defined terms.

5 Subsection (a)(3) of this section is revised to state explicitly when the court
6 is required to appoint an attorney to represent a defendant who is a person
7 in emergency management service or a person suffering injury or damage.

8 In subsection (a)(4) of this section, the former reference to a bond that is
9 "conditioned" to indemnify is deleted as included in the concept of
10 indemnification by a bond.

11 In subsection (a)(5) of this section, the reference to a "further" order is
12 deleted as surplusage.

13 In the introductory language of subsection (c)(1) of this section, the
14 reference to "fil[ing]" a motion with the court is substituted for the former
15 obsolete reference to an "application being made" to the court for clarity.

16 In subsection (d)(1)(i) of this section, the former phrase "in the discretion of
17 the court" is deleted as included in the reference that the court "may" take
18 specified actions.

19 In subsection (d)(2) of this section, the reference to the period that the
20 plaintiff or defendant "ceased to be" a person in emergency management
21 service or person suffering injury or damage is substituted for the former
22 reference to "thereafter" for clarity.

23 In subsection (d)(3) of this section, the phrase "the court finds" is
24 substituted for the former phrase "in the opinion of the court" for clarity
25 and consistency throughout this subtitle.

26 Defined terms: "Court" § 14-201

27 "Person" § 1-101

28 "Person in emergency management service" § 14-201

29 "Person suffering injury or damage" § 14-201

30 14-209. FINES OR PENALTIES FOR NONPERFORMANCE OF CONTRACTS.

31 (A) NO ACCRUAL DURING STAY.

32 IF AN ACTION FOR COMPLIANCE WITH THE TERMS OF A CONTRACT IS STAYED
33 UNDER THIS SUBTITLE, A FINE OR PENALTY DOES NOT ACCRUE BECAUSE OF
34 FAILURE TO COMPLY WITH THE TERMS OF THE CONTRACT DURING THE PERIOD OF
35 THE STAY.

36 (B) RELIEF AGAINST ENFORCEMENT.

1 A COURT MAY PROVIDE RELIEF AGAINST THE ENFORCEMENT OF A FINE OR
2 PENALTY FOR NONPERFORMANCE OF A CONTRACT IF THE COURT FINDS THAT:

3 (1) A PERSON FAILED TO PERFORM AN OBLIGATION AND A FINE OR
4 PENALTY FOR NONPERFORMANCE WAS INCURRED;

5 (2) THE FINE OR PENALTY WAS INCURRED DURING THE PERIOD THAT
6 THE PERSON WAS A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON
7 SUFFERING INJURY OR DAMAGE; AND

8 (3) THE ABILITY OF THE PERSON TO PAY THE FINE OR PENALTY OR
9 PERFORM THE OBLIGATION WAS MATERIALLY IMPAIRED BECAUSE THE PERSON WAS
10 A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY
11 OR DAMAGE.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 16A, §§ 18 and 14(d).

14 In the introductory language of subsection (b) of this section, the former
15 phrase "on such terms as may be just" is deleted as implicit in the power of
16 a court to provide relief.

17 In subsection (b)(3) of this section, the reference to the person being "a
18 person in emergency management service or person suffering injury or
19 damage" is substituted for the former reference to impairment "by reason
20 of being in such category" for clarity and to use the defined terms.

21 Defined terms: "Court" § 14-201

22 "Person" § 1-101

23 "Person in emergency management service" § 14-201

24 "Person suffering injury or damage" § 14-201

25 14-210. STAY OF EXECUTION OF JUDGMENT OR ORDER; VACATION OR STAY OF
26 ATTACHMENT OR GARNISHMENT.

27 (A) IN GENERAL.

28 IN A PROCEEDING IN A COURT AGAINST A PERSON IN EMERGENCY
29 MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE:

30 (1) ON ITS OWN INITIATIVE THE COURT MAY:

31 (I) STAY THE EXECUTION OF A JUDGMENT OR ORDER ENTERED
32 AGAINST THE PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON
33 SUFFERING INJURY OR DAMAGE; AND

34 (II) VACATE OR STAY AN ATTACHMENT OR GARNISHMENT OF
35 PROPERTY, MONEY, OR DEBTS HELD BY ANOTHER PERSON, WHETHER BEFORE OR
36 AFTER JUDGMENT; AND

1 (2) SUBJECT TO SUBSECTION (C) OF THIS SECTION, ON MOTION OF THE
2 PERSON IN EMERGENCY MANAGEMENT SERVICE, PERSON SUFFERING INJURY OR
3 DAMAGE, OR ANOTHER PERSON ACTING ON BEHALF OF THAT PERSON, THE COURT
4 SHALL:

5 (I) STAY THE EXECUTION OF A JUDGMENT OR ORDER ENTERED
6 AGAINST THE PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON
7 SUFFERING INJURY OR DAMAGE; AND

8 (II) VACATE OR STAY AN ATTACHMENT OR GARNISHMENT OF
9 PROPERTY, MONEY, OR DEBTS HELD BY ANOTHER PERSON, WHETHER BEFORE OR
10 AFTER JUDGMENT.

11 (B) APPLICABILITY OF SECTION.

12 THIS SECTION APPLIES TO A PROCEEDING IN A COURT BEFORE OR DURING THE
13 PERIOD THAT THE PERSON IS, OR WITHIN 60 DAYS AFTER THE PERSON CEASED TO
14 BE, A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING
15 INJURY OR DAMAGE.

16 (C) EXCEPTION.

17 THE COURT NEED NOT VACATE OR STAY A JUDGMENT OR ORDER ENTERED OR
18 SOUGHT UNDER THIS SECTION IF THE COURT FINDS THAT THE ABILITY OF THE
19 DEFENDANT TO COMPLY WITH THE JUDGMENT OR ORDER ENTERED OR SOUGHT
20 WAS NOT MATERIALLY AFFECTED BECAUSE THE DEFENDANT WAS A PERSON IN
21 EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 16A, § 19.

24 In the introductory language of subsection (a)(1) of this section, the former
25 phrase "in its discretion" is deleted as included in the reference that the
26 court "may" take specified actions.

27 In subsection (a)(1)(i) and (ii) and (2)(i) and (ii) of this section, the former
28 phrases "as provided in this subtitle" are deleted as surplusage.

29 Defined terms: "Court" § 14-201

30 "Person" § 1-101

31 "Person in emergency management service" § 14-201

32 "Person suffering injury or damage" § 14-201

33 14-211. PERIOD AND TERMS OF STAY OF ACTION, PROCEEDING, ATTACHMENT, OR
34 EXECUTION.

35 (A) IN GENERAL.

36 EXCEPT AS OTHERWISE PROVIDED, A COURT UNDER THIS SUBTITLE MAY STAY
37 AN ACTION, PROCEEDING, ATTACHMENT, OR EXECUTION:

1 (1) FOR ALL OR PART OF THE PERIOD DURING WHICH A PERSON IS, AND
2 FOR 3 MONTHS AFTER THE PERSON CEASED TO BE, A PERSON IN EMERGENCY
3 MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE; AND

4 (2) SUBJECT TO THE TERMS THAT THE COURT CONSIDERS JUST,
5 INCLUDING PAYMENT IN INSTALLMENTS IN THE AMOUNTS AND AT THE TIMES SET
6 BY THE COURT.

7 (B) RIGHT TO PROCEED AGAINST CO-DEFENDANTS.

8 NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THE COURT MAY
9 ALLOW A PLAINTIFF TO PROCEED AGAINST A CO-DEFENDANT OF A PERSON IN
10 EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 16A, §§ 20 and 14(d).

13 In subsection (a)(1) of this section, the phrase "for 3 months after the
14 person ceased to be" a person in emergency management service or person
15 suffering injury or damage is substituted for the former phrase "three
16 months thereafter" for clarity.

17 In subsection (a)(2) of this section, the former phrase "or otherwise" is
18 deleted as unnecessary in light of the reference to "including".

19 Defined terms: "Court" § 14-201

20 "Person" § 1-101

21 "Person in emergency management service" § 14-201

22 "Person suffering injury or damage" § 14-201

23 14-212. EVICTION OR DISTRESS.

24 (A) IN GENERAL.

25 EXCEPT BY ORDER OF COURT IN A PROCEEDING AFFECTING THE RIGHT OF
26 POSSESSION, AN ACTION FOR EVICTION OR DISTRESS MAY NOT BE BROUGHT
27 AGAINST A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING
28 INJURY OR DAMAGE IF:

29 (1) THE RENT FOR THE PREMISES DOES NOT EXCEED \$150 PER MONTH;
30 AND

31 (2) THE PREMISES ARE OCCUPIED FOR DWELLING PURPOSES BY THE
32 SPOUSE, CHILDREN, OR OTHER DEPENDENTS OF THE PERSON IN EMERGENCY
33 MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

34 (B) STAY OF PROCEEDINGS.

35 (1) IN A PROCEEDING AFFECTING THE RIGHT OF POSSESSION:

1 (I) 1. ON ITS OWN INITIATIVE THE COURT MAY STAY THE
2 PROCEEDING FOR A PERIOD NOT EXCEEDING 3 MONTHS; AND

3 2. SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ON
4 MOTION THE COURT SHALL STAY THE PROCEEDING FOR A PERIOD NOT EXCEEDING 3
5 MONTHS; OR

6 (II) THE COURT MAY ISSUE ANY OTHER ORDER.

7 (2) THE COURT NEED NOT STAY THE ACTION IF THE COURT FINDS THAT
8 THE ABILITY OF A TENANT TO PAY THE AGREED RENT WAS NOT MATERIALLY
9 AFFECTED BECAUSE THE TENANT WAS A PERSON IN EMERGENCY MANAGEMENT
10 SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 16A, § 22(a) and (b).

13 In the introductory language of subsection (a) and in subsection (b)(1) of
14 this section, the former obsolete references to an "application" are deleted
15 as included in the general reference to a "proceeding affecting the right of
16 possession".

17 In subsection (a)(2) of this section, the former reference to premises
18 occupied "chiefly" for dwelling purposes is deleted as surplusage.

19 In subsection (b)(1)(ii) of this section, the former phrase "as may be just" is
20 deleted as implicit.

21 In subsection (b)(2) of this section, the reference the court "finds" is
22 substituted for the former phrase "in the opinion of" the court for clarity
23 and consistency throughout this subtitle.

24 The Public Safety Article Review Committee notes, for consideration by the
25 General Assembly, that rent under this section may not exceed \$150 per
26 month. This rent limitation, which shields a person from eviction or
27 distraint under subsection (a)(1) of this section, is obsolete given current
28 economic conditions because it is doubtful that many premises can be
29 rented today for less than \$150 per month.

30 Defined terms: "Court" § 14-201

31 "Person in emergency management service" § 14-201

32 "Person suffering injury or damage" § 14-201

33 14-213. INSTALLMENT CONTRACTS FOR PURCHASE OF PROPERTY OR OF LEASE OR
34 BAILMENT.

35 (A) IN GENERAL.

36 (1) FOR NONPAYMENT OF AN INSTALLMENT DUE UNDER A CONTRACT
37 FOR THE PURCHASE OF REAL OR PERSONAL PROPERTY OR A CONTRACT OF LEASE OR

1 BAILMENT WITH THE OPTION TO PURCHASE THE PROPERTY, A PERSON OR THE
2 PERSON'S ASSIGNEE MAY NOT EXERCISE A RIGHT OR OPTION UNDER THE CONTRACT
3 TO RESCIND OR TERMINATE THE CONTRACT OR RESUME POSSESSION OF THE
4 PROPERTY IF:

5 (I) THE PERSON OR THE PERSON'S ASSIGNEE RECEIVED UNDER
6 THE CONTRACT A DEPOSIT OR INSTALLMENT OF THE PURCHASE PRICE OF THE
7 PROPERTY FROM ANOTHER PERSON OR THE ASSIGNEE OF THAT PERSON WHO,
8 AFTER MAKING THE DEPOSIT OR INSTALLMENT, BECAME A PERSON IN EMERGENCY
9 MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE; AND

10 (II) THE ATTEMPT TO EXERCISE THE RIGHT OR OPTION UNDER THE
11 CONTRACT OCCURRED WHILE THE PERSON WHO MADE THE DEPOSIT OR
12 INSTALLMENT WAS A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON
13 SUFFERING INJURY OR DAMAGE.

14 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY IF A COURT
15 ALLOWS THE PERSON OR THE PERSON'S ASSIGNEE TO EXERCISE THE RIGHT OR
16 OPTION UNDER THE CONTRACT.

17 (3) THIS SUBSECTION DOES NOT PREVENT THE PARTIES TO A
18 CONTRACT OR THEIR ASSIGNEES FROM MUTUALLY AGREEING IN AN EXECUTED
19 WRITING, AFTER THE MAKING OF THE CONTRACT AND DURING OR AFTER THE
20 PERIOD THAT A PARTY TO THE CONTRACT IS A PERSON IN EMERGENCY
21 MANAGEMENT SERVICE, TO:

22 (I) MODIFY, TERMINATE, OR CANCEL THE CONTRACT; OR

23 (II) REPOSSESS OR RETAIN THE PROPERTY PURCHASED OR
24 RECEIVED BY THAT PARTY UNDER THE CONTRACT.

25 (B) ORDER TO REPAY INSTALLMENTS OR STAY OF ACTION.

26 (1) AFTER A HEARING ON THE ACTION:

27 (I) THE COURT MAY ORDER THE REPAYMENT OF ALL OR PART OF
28 ANY PRIOR INSTALLMENT OR DEPOSIT AS A CONDITION OF TERMINATING THE
29 CONTRACT AND RESUMING POSSESSION OF THE PROPERTY;

30 (II) 1. ON ITS OWN INITIATIVE THE COURT MAY STAY THE
31 ACTION; AND

32 2. EXCEPT AS PROVIDED IN § 14-215 OF THIS SUBTITLE, ON
33 MOTION BY A PERSON IN EMERGENCY MANAGEMENT SERVICE, PERSON SUFFERING
34 INJURY OR DAMAGE, OR ANOTHER PERSON ACTING ON BEHALF OF THAT PERSON,
35 THE COURT SHALL STAY THE ACTION; OR

36 (III) THE COURT MAY OTHERWISE DISPOSE OF THE CASE AS IT
37 CONSIDERS EQUITABLE TO PRESERVE THE INTERESTS OF THE PARTIES.

1 (2) THE COURT NEED NOT STAY THE ACTION IF THE COURT FINDS THAT
2 THE ABILITY OF THE DEFENDANT TO COMPLY WITH THE TERMS OF THE CONTRACT
3 WAS NOT MATERIALLY AFFECTED BECAUSE THE DEFENDANT WAS A PERSON IN
4 EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 16A, §§ 14(d) and 23(a) and (c).

7 In the introductory language of subsection (a)(1) and in subsection (a)(1)(i)
8 and (2) of this section, the reference to an "assignee" is substituted for the
9 former reference to an "assignor" for accuracy. The Public Safety Article
10 Review Committee notes these substitutions for consideration by the
11 General Assembly.

12 In the introductory language of subsection (a)(1) of this section, the phrase
13 "with the option to" is substituted for the former obsolete phrase "with a
14 view to" for clarity and accuracy.

15 In subsection (a)(3) of this section, the reference to the period "during or
16 after the period that a party to the contract is a person in emergency
17 management service" is substituted for the former reference to "during or
18 after the period of military service of the person concerned" for clarity and
19 to use the defined term. This section covers a person in emergency
20 management service or a person suffering injury or damage, not a person
21 in military service.

22 In subsection (b)(1)(i)2 of this section, the phrase "on motion" is substituted
23 for the former obsolete phrase "on application to it" for clarity and
24 consistency throughout this subtitle.

25 In subsection (b)(2) of this section, the reference to a "person suffering
26 injury or damage" is added for consistency throughout this section.

27 Defined terms: "Court" § 14-201

28 "Person" § 1-101

29 "Person in emergency management service" § 14-201

30 "Person suffering injury or damage" § 14-201

31 14-214. MORTGAGES.

32 (A) SCOPE OF SECTION.

33 THIS SECTION APPLIES ONLY TO AN OBLIGATION THAT:

34 (1) IS ON REAL OR PERSONAL PROPERTY THAT IS OWNED BY A PERSON
35 WHEN THE PERSON BECOMES A PERSON IN EMERGENCY MANAGEMENT SERVICE OR
36 PERSON SUFFERING INJURY OR DAMAGE;

1 (2) ORIGINATES BEFORE THE PERSON BECAME A PERSON IN
2 EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE;
3 AND

4 (3) IS SECURED BY A MORTGAGE, DEED OF TRUST, OR OTHER SECURITY
5 IN THE NATURE OF A MORTGAGE.

6 (B) IN GENERAL.

7 (1) IN A PROCEEDING IN A COURT AGAINST A PERSON IN EMERGENCY
8 MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE TO ENFORCE
9 AN OBLIGATION SUBJECT TO THIS SECTION ARISING OUT OF THE NONPAYMENT OF A
10 SUM DUE UNDER THE OBLIGATION OR ARISING OUT OF A BREACH OF THE
11 OBLIGATION THAT OCCURS BEFORE OR DURING THE PERIOD THAT THE PERSON IS A
12 PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR
13 DAMAGE:

14 (I) ON ITS OWN INITIATIVE THE COURT, AFTER HEARING, MAY
15 STAY THE PROCEEDING OR OTHERWISE DISPOSE OF THE CASE AS IT CONSIDERS
16 EQUITABLE TO PRESERVE THE INTERESTS OF THE PARTIES; AND

17 (II) EXCEPT AS PROVIDED IN § 14-215 OF THIS SUBTITLE, ON
18 MOTION BY A PERSON IN EMERGENCY MANAGEMENT SERVICE, PERSON SUFFERING
19 INJURY OR DAMAGE, OR ANOTHER PERSON ACTING ON BEHALF OF THAT PERSON,
20 THE COURT SHALL STAY THE PROCEEDING OR OTHERWISE DISPOSE OF THE CASE AS
21 IT CONSIDERS EQUITABLE TO PRESERVE THE INTERESTS OF THE PARTIES.

22 (2) THE COURT NEED NOT STAY THE PROCEEDING IF THE COURT FINDS
23 THAT THE ABILITY OF THE DEFENDANT TO COMPLY WITH THE TERMS OF THE
24 OBLIGATION WAS NOT MATERIALLY AFFECTED BECAUSE THE DEFENDANT WAS A
25 PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR
26 DAMAGE.

27 (C) SALE OF PROPERTY UNDER POWER OF SALE OR CONFESSION OF
28 JUDGMENT.

29 EXCEPT ON AN ORDER OF SALE PREVIOUSLY GRANTED BY A COURT AND A
30 RETURN TO THE ORDER MADE AND APPROVED BY THE COURT, A SALE UNDER A
31 POWER OF SALE OR UNDER A JUDGMENT ENTERED ON A CONFESSION OF JUDGMENT
32 CONTAINED IN AN OBLIGATION SUBJECT TO THIS SECTION IS NOT VALID IF MADE
33 DURING THE PERIOD THAT THE PERSON WHO OWNS THE PROPERTY IS, OR WITHIN 3
34 MONTHS AFTER THE PERSON CEASED TO BE, A PERSON IN EMERGENCY
35 MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

36 REVISOR'S NOTE: This section is new language derived without substantive
37 change from former Art. 16A, §§ 24 and 14(d).

38 In subsections (a)(1) and (b)(2) of this section, the reference to the person
39 being "a person in emergency management service or person suffering
40 injury or damage" is substituted for the former reference to "being in such

- 1 category" for clarity and to use the defined terms.
- 2 In subsection (a)(1) of this section, the former phrase "and still so owned by
3 him" is deleted as surplusage.
- 4 In subsection (a)(3) of this section, the reference to a "deed of trust" is
5 substituted for the former reference to a "trust deed" for clarity.
- 6 In subsection (b)(1)(i) of this section, the former phrase "in its discretion" is
7 deleted as included in the reference the court "may".
- 8 In subsection (b)(1)(ii) of this section, the phrase "on motion" is substituted
9 for the former obsolete phrase "on application to it" for clarity and
10 consistency throughout this subsection.
- 11 In subsection (c) of this section, the reference to a person "who owns the
12 property" is added for clarity.
- 13 Also in subsection (c) of this section, the reference to a "confession of
14 judgment" is substituted for the former obsolete reference to a "warrant of
15 attorney to confess judgment" for brevity.
- 16 Also in subsection (c) of this section, the reference to an obligation "subject
17 to this section" is substituted for the former reference to "such" obligation
18 for clarity.

19 Defined terms: "Court" § 14-201

20 "Person" § 1-101

21 "Person in emergency management service" § 14-201

22 "Person suffering injury or damage" § 14-201

23 14-215. STAY OF PROCEEDINGS FOR REPOSSESSION OR SALE OF MOTOR VEHICLE
24 OR TRACTOR.

25 (A) IN GENERAL.

26 EXCEPT IF A COURT FINDS THAT 50% OR MORE OF THE PURCHASE PRICE OF A
27 MOTOR VEHICLE, TRACTOR, OR THE ACCESSORIES OF A MOTOR VEHICLE OR
28 TRACTOR HAS BEEN PAID, A COURT MAY NOT STAY A PROCEEDING TO RESUME
29 POSSESSION OF OR TO ORDER THE SALE OF A MOTOR VEHICLE, TRACTOR, OR THE
30 ACCESSORIES OF A MOTOR VEHICLE OR TRACTOR THAT IS ENCUMBERED BY A
31 PURCHASE MONEY MORTGAGE, CONDITIONAL SALES CONTRACT, OR A LEASE OR
32 BAILMENT WITH AN OPTION TO PURCHASE.

33 (B) AUTHORIZATION TO REQUIRE BOND.

34 BEFORE ENTERING AN ORDER OR JUDGMENT IN A PROCEEDING TO RESUME
35 POSSESSION OF OR TO ORDER THE SALE OF A MOTOR VEHICLE, TRACTOR, OR THE
36 ACCESSORIES OF A MOTOR VEHICLE OR TRACTOR, THE COURT MAY REQUIRE THE
37 PLAINTIFF TO FILE A BOND APPROVED BY THE COURT TO INDEMNIFY THE

1 DEFENDANT, IF THE DEFENDANT IS A PERSON IN EMERGENCY MANAGEMENT
2 SERVICE OR PERSON SUFFERING INJURY OR DAMAGE, AGAINST ANY LOSS OR
3 DAMAGE THAT THE DEFENDANT MAY SUFFER BECAUSE OF THE JUDGMENT OR
4 ORDER IF ALL OR PART OF THE JUDGMENT OR ORDER IS SET ASIDE.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 16A, § 25.

7 In subsection (a) of this section, the phrase "with an option to purchase" is
8 substituted for the former obsolete phrase "with a view to purchase" for
9 clarity and accuracy.

10 The Public Safety Article Review Committee notes, for consideration by the
11 General Assembly, that this section is too limited because the only farm
12 equipment it covers is a tractor. The Committee also notes that this section
13 may be covered by the Uniform Commercial Code.

14 Defined terms: "Court" § 14-201

15 "Person in emergency management service" § 14-201

16 "Person suffering injury or damage" § 14-201

17 14-216. REAL PROPERTY TAXES.

18 (A) SCOPE OF SECTION.

19 THIS SECTION APPLIES TO REAL PROPERTY:

20 (1) ON WHICH GENERAL OR SPECIAL TAXES OR ASSESSMENTS FALL DUE
21 BUT ARE NOT PAID DURING THE PERIOD A PERSON IS A PERSON IN EMERGENCY
22 MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE; AND

23 (2) THAT:

24 (I) IS OWNED AND OCCUPIED AS A DWELLING OR FOR
25 AGRICULTURAL OR BUSINESS PURPOSES BY THE PERSON IN EMERGENCY
26 MANAGEMENT SERVICE, PERSON SUFFERING INJURY OR DAMAGE, OR A DEPENDENT
27 OR EMPLOYEE OF THAT PERSON WHEN THE PERSON BECOMES A PERSON IN
28 EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE;
29 AND

30 (II) CONTINUES TO BE OCCUPIED BY THE DEPENDENTS OR
31 EMPLOYEES.

32 (B) FILING OF AFFIDAVIT.

33 (1) EXCEPT BY ORDER OF COURT GRANTED ON MOTION BY THE
34 COLLECTOR OF TAXES OR ANOTHER OFFICER WHOSE DUTY IS TO ENFORCE THE
35 COLLECTION OF TAXES OR ASSESSMENTS, THE PROPERTY OF A PERSON IN
36 EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE
37 MAY NOT BE SOLD TO ENFORCE THE COLLECTION OF A TAX OR ASSESSMENT, AND A

1 PROCEEDING TO ENFORCE THE COLLECTION OF A TAX OR ASSESSMENT MAY NOT BE
2 BROUGHT, IF THE PERSON IN EMERGENCY MANAGEMENT SERVICE, PERSON
3 SUFFERING INJURY OR DAMAGE, OR ANOTHER PERSON ACTING ON BEHALF OF THAT
4 PERSON, FILES WITH THE COLLECTOR OF TAXES OR OTHER OFFICER AN AFFIDAVIT
5 THAT SHOWS THAT:

6 (I) A TAX OR ASSESSMENT HAS BEEN ASSESSED ON PROPERTY
7 SUBJECT TO THIS SECTION;

8 (II) THE TAX OR ASSESSMENT IS UNPAID; AND

9 (III) THE PERSON'S ABILITY TO PAY THE TAX OR ASSESSMENT IS
10 MATERIALLY AFFECTED BECAUSE THE PERSON IS A PERSON IN EMERGENCY
11 MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

12 (2) THE COURT MAY STAY THE PROCEEDINGS OR SALE FOR A PERIOD
13 NOT EXCEEDING 6 MONTHS AFTER THE PERSON OWING THE TAX CEASED TO BE A
14 PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR
15 DAMAGE.

16 (C) REDEMPTION OF PROPERTY.

17 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF BY
18 LAW PROPERTY SUBJECT TO THIS SECTION IS SOLD OR FORFEITED TO ENFORCE THE
19 COLLECTION OF A TAX OR ASSESSMENT ON THE PROPERTY, A PERSON IN
20 EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE
21 MAY REDEEM THE PROPERTY OR BRING AN ACTION TO REDEEM THE PROPERTY NOT
22 LATER THAN 6 MONTHS AFTER THE PERSON CEASED TO BE A PERSON IN
23 EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

24 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT SHORTEN ANY
25 PERIOD FOR REDEMPTION PROVIDED BY STATE LAW.

26 (D) INTEREST ON UNPAID TAXES AND ASSESSMENTS.

27 (1) (I) IF A TAX OR ASSESSMENT ON PROPERTY SUBJECT TO THIS
28 SECTION IS NOT PAID WHEN DUE, INTEREST ON THE TAX OR ASSESSMENT DUE AND
29 UNPAID SHALL ACCRUE AT THE RATE OF 6% PER YEAR.

30 (II) NO OTHER PENALTY OR INTEREST MAY BE IMPOSED BECAUSE
31 OF THE NONPAYMENT.

32 (2) A LIEN FOR UNPAID TAXES OR AN UNPAID ASSESSMENT SHALL
33 INCLUDE ANY INTEREST THAT ACCRUES UNDER THIS SUBSECTION.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 16A, §§ 26 and 14(d).

36 In the introductory language of subsection (b)(1) of this section, the phrase
37 "by order" of court is substituted for the former obsolete phrase "upon

1 leave" of court for clarity.

2 Also in the introductory language of subsection (b)(1) of this section, the
3 phrase "on motion" is substituted for the former obsolete phrase "upon an
4 application made" for clarity.

5 In subsection (c)(1) of this section, the phrase "[e]xcept as provided in
6 paragraph (2) of this subsection" is added for clarity.

7 Also in subsection (c)(1) of this section, the reference to "property subject to
8 this section" is substituted for the former reference to "such property" for
9 clarity.

10 Also in subsection (c)(1) of this section, the reference to the person
11 "ceas[ing] to be" a person in emergency management service or person
12 suffering injury or damage is substituted for the former reference to "after
13 the termination of being in such category" for clarity.

14 In subsection (c)(2) of this section, the former phrase "now or hereafter"
15 provided by State law is deleted as surplusage.

16 In subsection (d) of this section, the former reference to bearing interest
17 "until paid" is deleted as surplusage.

18 Defined terms: "Court" § 14-201

19 "Person" § 1-101

20 "Person in emergency management service" § 14-201

21 "Person suffering injury or damage" § 14-201

22 14-217. INCOME TAXES.

23 (A) DEFERRAL OF TAX DUE.

24 (1) IF A PERSON'S ABILITY TO PAY INCOME TAX IS MATERIALLY
25 IMPAIRED BECAUSE THE PERSON IS A PERSON IN EMERGENCY MANAGEMENT
26 SERVICE OR PERSON SUFFERING INJURY OR DAMAGE, THE COLLECTION OF INCOME
27 TAX FROM THAT PERSON THAT WAS DUE BEFORE THE PERSON BECAME, OR THAT
28 FALLS DUE DURING THE PERIOD THAT THE PERSON IS, A PERSON IN EMERGENCY
29 MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE SHALL BE
30 DEFERRED FOR A PERIOD NOT EXCEEDING 6 MONTHS AFTER THE PERSON CEASED
31 TO BE A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING
32 INJURY OR DAMAGE.

33 (2) IF THE COLLECTION OF INCOME TAXES IS DEFERRED UNDER THIS
34 SECTION, THE RUNNING OF A STATUTE OF LIMITATIONS AGAINST THE COLLECTION
35 OF THOSE TAXES IS SUSPENDED FOR A PERIOD OF 9 MONTHS AFTER THE PERSON
36 CEASED TO BE A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON
37 SUFFERING INJURY OR DAMAGE.

38 (B) INTEREST AND PENALTIES.

1 (1) INTEREST ON THE AMOUNT OF TAX DUE AND UNPAID DOES NOT
2 ACCRUE DURING THE PERIOD THAT THE COLLECTION OF THE TAX IS DEFERRED
3 UNDER THIS SECTION.

4 (2) A PENALTY FOR NONPAYMENT OF TAX DOES NOT ACCRUE DURING
5 THE PERIOD THAT THE COLLECTION OF TAX IS DEFERRED UNDER THIS SECTION.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 16A, §§ 27 and 14(d).

8 In subsection (a)(1) of this section, the phrase "because the person is a
9 person in emergency management service or person suffering injury or
10 damage" is substituted for the former reference to "by reason of being in
11 such category" for clarity.

12 In subsection (a)(2) of this section, the former reference to collection of the
13 tax "by distraint or otherwise" is deleted as surplusage.

14 Defined terms: "Person" § 1-101

15 "Person in emergency management service" § 14-201

16 "Person suffering injury or damage" § 14-201

17 14-218. PROHIBITED ACTS; PENALTY.

18 (A) FALSE AFFIDAVITS PROHIBITED.

19 A PERSON MAY NOT MAKE OR USE AN AFFIDAVIT REQUIRED UNDER § 14-208 OF
20 THIS SUBTITLE IF THE PERSON KNOWS THE AFFIDAVIT IS FALSE.

21 (B) ILLEGAL EVICTION OR DISTRAINT OF PROPERTY PROHIBITED.

22 A PERSON MAY NOT KNOWINGLY PARTICIPATE IN AN EVICTION OR DISTRESS IN
23 A MANNER OTHER THAN IN ACCORDANCE WITH § 14-212 OF THIS SUBTITLE.

24 (C) ILLEGAL REPOSSESSION OF PROPERTY PROHIBITED.

25 A PERSON MAY NOT KNOWINGLY RESUME POSSESSION OF PROPERTY SUBJECT
26 TO § 14-213 OF THIS SUBTITLE IN A MANNER OTHER THAN IN ACCORDANCE WITH §
27 14-213(A) OF THIS SUBTITLE.

28 (D) PENALTY.

29 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
30 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE
31 NOT EXCEEDING \$1,000 OR BOTH.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 16A, §§ 17(b), 22(c), and 23(b).

34 In subsection (d) of this section, the reference to a person "on conviction"
35 being subject to a certain penalty is added to state expressly that which

1 only was implied in the former law and for consistency with other penalty
2 provisions in this and other revised articles of the Code.

3 Defined term: "Person" § 1-101

4 GENERAL REVISOR'S NOTE TO SUBTITLE:

5 Former Art. 16A, § 31, which provides for the severability of the provisions of the
6 former Art. 16A, §§ 13 through 31, is deleted as unnecessary. Article 1, § 23 states that
7 the provisions of statutes enacted after July 1, 1973, are severable unless the statute
8 specifically provides that they are not. Since the Public Safety Article was enacted
9 after July 1, 1973, a severability clause is unnecessary for this subtitle.

10 SUBTITLE 3. GOVERNOR'S EMERGENCY POWERS.

11 14-301. DEFINITIONS.

12 (A) IN GENERAL.

13 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

14 REVISOR'S NOTE: This subsection is new language derived without
15 substantive change from the first sentence of former Art. 41, § 2-101(b).

16 (B) ENERGY EMERGENCY.

17 "ENERGY EMERGENCY" MEANS A SITUATION IN WHICH THE HEALTH, SAFETY,
18 OR WELFARE OF THE PUBLIC IS THREATENED BY AN ACTUAL OR IMPENDING ACUTE
19 SHORTAGE IN ENERGY RESOURCES.

20 REVISOR'S NOTE: This subsection is new language derived without
21 substantive change from the first sentence of former Art. 41, §
22 2-101(c-1)(1).

23 The defined term "energy emergency" is substituted for the former
24 references to a "crisis", "disaster", "catastrophe", and "similar public
25 emergency" to use a more specific term to describe the type of emergency
26 encompassed by the defined term.

27 The reference to the "public" is substituted for the former reference to the
28 "citizens of this State" for consistency with terminology used throughout
29 this article.

30 The former reference to "usable" energy resources is deleted as surplusage.

31 (C) PUBLIC EMERGENCY.

32 "PUBLIC EMERGENCY" MEANS:

33 (1) A SITUATION IN WHICH THREE OR MORE INDIVIDUALS ARE AT THE
34 SAME TIME AND IN THE SAME PLACE ENGAGED IN TUMULTUOUS CONDUCT THAT

1 LEADS TO THE COMMISSION OF UNLAWFUL ACTS THAT DISTURB THE PUBLIC PEACE
 2 OR CAUSE THE UNLAWFUL DESTRUCTION OR DAMAGE OF PUBLIC OR PRIVATE
 3 PROPERTY;

4 (2) A CRISIS, DISASTER, RIOT, OR CATASTROPHE; OR

5 (3) AN ENERGY EMERGENCY.

6 REVISOR'S NOTE: This subsection is new language derived without
 7 substantive change from former Art. 41, § 2-101(b)(1) and the first
 8 sentence of (c-1)(1).

9 In item (1) of this subsection, the reference to "individuals" is substituted
 10 for the former reference to "persons" because individuals, and not the other
 11 entities included in the defined term "person", engage in tumultuous
 12 conduct. *See* § 1-101 of this article for the definition of "person".

13 Also in item (1) of this subsection, the phrase "at the same time and in the
 14 same place" is substituted for the former reference to "contemporaneously,
 15 both as to time and place" for clarity.

16 Defined term: "Energy emergency" § 14-301

17 REVISOR'S NOTE TO SECTION: Former Art. 41, § 2-101(b)(3), which defined
 18 "promulgate" to mean to announce publicly, is deleted as unnecessary
 19 because it merely repeated the ordinary meaning of the word.

20 Former Art. 41, § 2-101(b)(2), which defined "[o]rders, `rules' and
 21 `regulations'", is revised in the substantive provisions that relate to the
 22 authority of the Governor to promulgate orders during a state of
 23 emergency. *See* § 14-303(b) of this subtitle.

24 Former Art. 41, § 2-101(b)(4), which defined "[a]ny action", is revised in
 25 the substantive provisions that relate to the authority of the Department
 26 of State Police to assist local law enforcement agencies during a state of
 27 emergency. *See* § 14-305(c) of this subtitle.

28 14-302. LEGISLATIVE INTENT.

29 (A) IN GENERAL.

30 THE GENERAL ASSEMBLY RECOGNIZES THE GOVERNOR'S BROAD AUTHORITY
 31 IN THE EXERCISE OF THE POLICE POWER OF THE STATE TO PROVIDE ADEQUATE
 32 CONTROL OVER PERSONS AND CONDITIONS DURING IMPENDING OR ACTUAL PUBLIC
 33 EMERGENCIES.

34 (B) CONSTRUCTION OF SUBTITLE.

35 THIS SUBTITLE SHALL BE BROADLY CONSTRUED TO CARRY OUT THE PURPOSE
 36 OF THIS SUBTITLE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 41, § 2-101(a).

3 In subsection (a) of this section, the reference to the Governor's "authority"
4 is substituted for the former reference to the Governor's "power of action"
5 for brevity and consistency with terminology used in this and other revised
6 articles of the Code.

7 Also in subsection (a) of this section, the defined term "public emergency"
8 is substituted for the former reference to a "public crisis or disaster" for
9 brevity and consistency with terminology used throughout this subtitle.

10 Also in subsection (a) of this section, the former reference to "such periods
11 of" impending or actual public emergencies is deleted as surplusage.

12 In subsection (b) of this section, the reference to this "subtitle" is
13 substituted for the former reference to this "section". The general reference
14 to this "subtitle" is broader than the former reference to this "section"
15 because Title 14, Subtitle 3 of this article includes former Art. 41, §§ 2-102
16 and 2-103, revised at §§ 14-307 and 14-308(b) of this subtitle. Section
17 14-307 of this subtitle authorizes the Governor during an emergency to
18 proclaim a day for the general cessation of business. Section 14-308(b) of
19 this subtitle prohibits fraudulent representation in meeting the
20 requirements of an order, rule, or regulation adopted by the Governor
21 during a state of emergency. Because these provisions relate to the
22 authority of the Governor during an emergency, the intent would seem to
23 be that they be broadly construed just as the other provisions of this
24 subtitle are. No substantive change is intended by the substitution of the
25 reference to this "subtitle" for the former reference to this "section".

26 Also in subsection (b) of this section, the phrase "to carry out the purpose of
27 this subtitle" is substituted for the former phrase "to effectuate this
28 purpose" for clarity.

29 Defined term: "Public emergency" § 14-301

30 14-303. GOVERNOR'S PROCLAMATION OF STATE OF EMERGENCY.

31 (A) AUTHORITY TO PROCLAIM STATE OF EMERGENCY.

32 DURING A PUBLIC EMERGENCY IN THE STATE, THE GOVERNOR MAY PROCLAIM
33 A STATE OF EMERGENCY AND DESIGNATE THE EMERGENCY AREA:

34 (1) IF PUBLIC SAFETY IS ENDANGERED OR ON REASONABLE
35 APPREHENSION OF IMMEDIATE DANGER TO PUBLIC SAFETY; AND

36 (2) ON:

37 (I) THE GOVERNOR'S OWN INITIATIVE; OR

1 (II) THE APPLICATION OF:

2 1. THE CHIEF EXECUTIVE OFFICER OR GOVERNING BODY OF
3 A COUNTY OR MUNICIPAL CORPORATION; OR

4 2. THE SECRETARY OF STATE POLICE.

5 (B) ORDERS, RULES, AND REGULATIONS TO CONTROL AND TERMINATE
6 PUBLIC EMERGENCY -- ISSUANCE.

7 AFTER PROCLAIMING A STATE OF EMERGENCY, THE GOVERNOR MAY
8 PROMULGATE REASONABLE ORDERS, RULES, OR REGULATIONS THAT THE
9 GOVERNOR CONSIDERS NECESSARY TO PROTECT LIFE AND PROPERTY OR
10 CALCULATED EFFECTIVELY TO CONTROL AND TERMINATE THE PUBLIC EMERGENCY
11 IN THE EMERGENCY AREA, INCLUDING ORDERS, RULES, OR REGULATIONS TO:

12 (1) CONTROL TRAFFIC, INCLUDING PUBLIC AND PRIVATE
13 TRANSPORTATION, IN THE EMERGENCY AREA;

14 (2) DESIGNATE SPECIFIC ZONES IN THE EMERGENCY AREA IN WHICH
15 THE OCCUPANCY AND USE OF BUILDINGS AND VEHICLES MAY BE CONTROLLED;

16 (3) CONTROL THE MOVEMENT OF INDIVIDUALS OR VEHICLES INTO, IN,
17 OR FROM THE DESIGNATED ZONES;

18 (4) CONTROL PLACES OF AMUSEMENT AND PLACES OF ASSEMBLY;

19 (5) CONTROL INDIVIDUALS ON PUBLIC STREETS;

20 (6) ESTABLISH CURFEWS;

21 (7) CONTROL THE SALE, TRANSPORTATION, AND USE OF ALCOHOLIC
22 BEVERAGES;

23 (8) CONTROL THE POSSESSION, SALE, CARRYING, AND USE OF
24 FIREARMS, OTHER DANGEROUS WEAPONS, AND AMMUNITION; AND

25 (9) CONTROL THE STORAGE, USE, AND TRANSPORTATION OF
26 EXPLOSIVES OR FLAMMABLE MATERIALS OR LIQUIDS CONSIDERED TO BE
27 DANGEROUS TO PUBLIC SAFETY, INCLUDING "MOLOTOV COCKTAILS".

28 (C) SAME -- NOTICE.

29 BEFORE AN ORDER, RULE, OR REGULATION PROMULGATED UNDER
30 SUBSECTION (B) OF THIS SECTION TAKES EFFECT, THE GOVERNOR SHALL GIVE
31 REASONABLE NOTICE OF THE ORDER, RULE, OR REGULATION:

32 (1) IN A NEWSPAPER OF GENERAL CIRCULATION IN THE EMERGENCY
33 AREA;

1 (2) THROUGH TELEVISION OR RADIO SERVING THE EMERGENCY AREA;
2 OR

3 (3) BY CIRCULATING NOTICES OR POSTING SIGNS AT CONSPICUOUS
4 PLACES IN THE EMERGENCY AREA.

5 (D) SAME -- EFFECT.

6 AN ORDER, RULE, OR REGULATION PROMULGATED UNDER SUBSECTION (B) OF
7 THIS SECTION:

8 (1) TAKES EFFECT FROM THE TIME AND IN THE MANNER SPECIFIED IN
9 THE ORDER, RULE, OR REGULATION;

10 (2) MAY BE AMENDED OR RESCINDED, IN THE SAME MANNER AS THE
11 ORIGINAL ORDER, BY THE GOVERNOR AT ANY TIME DURING THE STATE OF
12 EMERGENCY; AND

13 (3) TERMINATES WHEN THE GOVERNOR DECLARES THAT THE STATE OF
14 EMERGENCY NO LONGER EXISTS.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 41, § 2-101(b)(2) and (c).

17 In the introductory language of subsection (a) of this section, the reference
18 to the "emergency area" is substituted for the former reference to the "area
19 involved" for consistency with terminology used in § 14-306 of this
20 subtitle. Similarly, in subsections (b)(1) and (2) and (c)(1), (2), and (3), the
21 references to the "emergency area" are substituted for the former
22 references to the "affected area".

23 In subsection (a)(2)(ii)1 of this section, the reference to a "municipal
24 corporation" is substituted for the former references to a "city or local
25 municipality" for brevity and consistency with Md. Constitution, Art. XI-E.

26 In the introductory language of subsection (b) of this section, the defined
27 term "public emergency" is substituted for the former reference to the
28 "emergency situation" for consistency within this subtitle.

29 Also in the introductory language of subsection (b) of this section, the
30 former phrase "by way of enumerated example rather than limitation" is
31 deleted as unnecessary in light of Art. 1, § 30, which provides that "[t]he
32 words `includes' or `including' mean, unless the context requires otherwise,
33 includes or including by way of illustration and not by way of limitation".
34 Similarly, in subsection (b)(9) of this section, the former phrase "but not
35 limited to" is deleted.

36 In subsection (b)(2) of this section, the former phrase "under necessitous
37 circumstances" is deleted as implicit.

1 %In subsection (b)(3) and (5) of this section, the reference to "individuals" is
2 substituted for the former reference to "persons" because only individuals,
3 and not the other entities included in the defined term "person", are
4 covered by these provisions. *See* § 1-101 of this article for the definition of
5 "person".

6 In subsection (b)(5) of this section, the former reference to "thoroughfares"
7 is deleted as redundant and obsolete.

8 In subsection (b)(7) of this section, the former reference to "liquors" is
9 deleted as included in the reference to "alcoholic beverages".

10 In subsection (b)(9) of this section, the word "flammable" is substituted for
11 the former word "inflammable" to conform to a style convention used in
12 revised articles of the Code.

13 In subsection (c) of this section, the former phrase "shall be made public
14 prior to such time as provided herein" is deleted as included in the specific
15 requirements of subsection (c) of this section that relate to public notice.

16 In subsection (c)(1) of this section, the reference to a "newspaper" of
17 general circulation is substituted for the former reference to a "paper" of
18 general circulation for clarity and specificity.

19 In subsection (d)(2) and (3) of this section, the references to the "state of"
20 emergency are added for clarity and consistency within this section.

21 In subsection (d)(2) of this section, the former reference to an order being
22 "modified" is deleted as included in the reference to the order being
23 "amended".

24 Defined term: "Public emergency" § 14-301

25 14-304. ENERGY EMERGENCIES.

26 (A) GOVERNOR'S AUTHORITY TO PROCLAIM STATE OF EMERGENCY.

27 ON REASONABLE APPREHENSION THAT AN ENERGY EMERGENCY EXISTS, THE
28 GOVERNOR MAY PROCLAIM A STATE OF EMERGENCY.

29 (B) ORDERS, RULES, AND REGULATIONS -- ISSUANCE AND CONTENTS.

30 NOTWITHSTANDING ANY OTHER PROVISION OR LIMITATION OF STATE OR
31 LOCAL LAW, IF THE GOVERNOR PROCLAIMS A STATE OF EMERGENCY UNDER THIS
32 SECTION, IN ADDITION TO ANY OTHER ORDER, RULE, OR REGULATION
33 PROMULGATED UNDER THIS SUBTITLE, THE GOVERNOR MAY PROMULGATE ORDERS,
34 RULES, OR REGULATIONS TO:

1 (1) ESTABLISH AND IMPLEMENT PROGRAMS, CONTROLS, STANDARDS,
2 PRIORITIES, AND QUOTAS FOR THE ALLOCATION, CONSERVATION, AND
3 CONSUMPTION OF ENERGY RESOURCES;

4 (2) SUSPEND AND MODIFY EXISTING STANDARDS AND REQUIREMENTS
5 AFFECTING OR AFFECTED BY THE USE OF ENERGY RESOURCES, INCLUDING THOSE
6 THAT RELATE TO AIR QUALITY CONTROL, THE TYPE AND COMPOSITION OF VARIOUS
7 ENERGY RESOURCES, THE PRODUCTION AND DISTRIBUTION OF ENERGY
8 RESOURCES, AND THE HOURS AND DAYS DURING WHICH PUBLIC BUILDINGS AND
9 COMMERCIAL AND INDUSTRIAL ESTABLISHMENTS ARE AUTHORIZED OR REQUIRED
10 TO REMAIN OPEN; AND

11 (3) ESTABLISH AND IMPLEMENT REGIONAL PROGRAMS AND
12 AGREEMENTS TO COORDINATE THE ENERGY RESOURCE PROGRAMS AND ACTIONS
13 OF THE STATE WITH THOSE OF THE FEDERAL GOVERNMENT AND OF OTHER STATES
14 AND LOCALITIES.

15 (C) SAME -- IMPOSITION OF CIVIL PENALTIES.

16 INSTEAD OF OR IN ADDITION TO THE PENALTIES PROVIDED IN § 14-308 OF THIS
17 SUBTITLE, AN ORDER, RULE, OR REGULATION PROMULGATED BY THE GOVERNOR
18 UNDER THIS SECTION MAY PROVIDE FOR:

19 (1) THE IMPOSITION OF A CIVIL PENALTY NOT EXCEEDING \$1,000 FOR
20 EACH VIOLATION; AND

21 (2) THE METHOD AND CONDITIONS OF COLLECTING THE CIVIL
22 PENALTY.

23 (D) SAME -- LEGISLATIVE APPROVAL.

24 (1) IN THIS SUBSECTION, "COMMITTEE" MEANS:

25 (I) THE JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE, AND
26 LEGISLATIVE REVIEW; OR

27 (II) ANY OTHER JOINT COMMITTEE SUBSTITUTED BY THE
28 GENERAL ASSEMBLY BY LAW TO CARRY OUT THE RESPONSIBILITIES OF THE JOINT
29 COMMITTEE ON ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW WITH
30 RESPECT TO AN ENERGY EMERGENCY.

31 (2) BEFORE PROMULGATING AN ORDER, RULE, OR REGULATION UNDER
32 THIS SECTION, THE GOVERNOR SHALL SUBMIT THE ORDER, RULE, OR REGULATION
33 TO THE COMMITTEE FOR APPROVAL OR REJECTION.

34 (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
35 PARAGRAPH, IF THE COMMITTEE FAILS TO TAKE ACTION ON THE ORDER, RULE, OR
36 REGULATION WITHIN 7 DAYS AFTER ITS SUBMISSION, THE ORDER, RULE, OR
37 REGULATION TAKES EFFECT AS PROMULGATED BY THE GOVERNOR.

1 (II) 1. IF BECAUSE OF EXTRAORDINARY CIRCUMSTANCES IT IS
2 NOT FEASIBLE TO SECURE THE PRIOR APPROVAL OF THE COMMITTEE, AN ORDER,
3 RULE, OR REGULATION TAKES EFFECT IMMEDIATELY.

4 2. WITHIN 2 DAYS AFTER IT TAKES EFFECT, THE ORDER,
5 RULE, OR REGULATION SHALL BE COMMUNICATED TO THE CHAIRMAN OF THE
6 COMMITTEE.

7 3. THE FULL COMMITTEE SHALL BE CONVENED WITHIN 5
8 DAYS AFTER THE ORDER, RULE, OR REGULATION IS COMMUNICATED TO THE
9 CHAIRMAN.

10 4. THE ORDER, RULE, OR REGULATION IS SUBJECT TO
11 DISAPPROVAL BY THE FULL COMMITTEE.

12 (4) ALL RECORDS OF ORDERS, RULES, REGULATIONS, AND COMMITTEE
13 MEETINGS ARE OPEN TO THE PUBLIC.

14 (E) CONSTRUCTION OF SECTION.

15 THIS SECTION DOES NOT AUTHORIZE THE ESTABLISHMENT OF OIL
16 REFINERIES, DEEP WATER PORTS, OFFSHORE DRILLING FACILITIES, OR OTHER
17 SIMILAR MAJOR CAPITAL FACILITIES.

18 (F) GOVERNOR'S AUTHORITY TO IMPLEMENT FEDERAL PROGRAMS.

19 IN ADDITION TO THE SPECIFIC EMERGENCY POWERS CONTAINED IN THIS
20 SUBTITLE, THE GENERAL ASSEMBLY RECOGNIZES AND CONFIRMS THE GOVERNOR'S
21 POWER TO EXERCISE FULLY THE AUTHORITY NECESSARY TO IMPLEMENT ANY
22 FEDERAL MANDATORY ENERGY EMERGENCY PROGRAM AS SET FORTH IN ANY
23 FEDERAL PROGRAMS, LAWS, ORDERS, RULES, OR REGULATIONS THAT RELATE TO
24 THE ALLOCATION, CONSERVATION, OR CONSUMPTION OF ENERGY RESOURCES.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 41, § 2-101(c-1)(2), (3), (4), and (5), and the
27 second and third sentences of (1).

28 In subsection (b) of this section, the former phrase "may also include, by
29 way of further enumerated example rather than limitation" is deleted as
30 unnecessary in light of Art. 1, § 30, which provides that "[t]he words
31 `includes' or `including' mean, unless the context requires otherwise,
32 includes or including by way of illustration and not by way of limitation".

33 Defined term: "Energy emergency" § 14-301

34 14-305. COOPERATION AMONG STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

35 (A) IN GENERAL.

1 IF THE GOVERNOR PROCLAIMS THAT A STATE OF EMERGENCY EXISTS, EACH
2 LAW ENFORCEMENT AGENCY, FIRE COMPANY, OR RESCUE SQUAD OF THE STATE, A
3 COUNTY, OR MUNICIPAL CORPORATION SHALL:

4 (1) COOPERATE IN ANY MANNER REQUESTED BY THE GOVERNOR OR
5 THE GOVERNOR'S DESIGNATED REPRESENTATIVE; AND

6 (2) SUBJECT TO SUBSECTION (B) OF THIS SECTION, ALLOW THE USE OF
7 ITS EQUIPMENT, FACILITIES, AND PERSONNEL IF THE USE IS REQUIRED BY THE
8 GOVERNOR OR THE GOVERNOR'S DESIGNATED REPRESENTATIVE.

9 (B) USE OF EQUIPMENT, FACILITIES, AND PERSONNEL.

10 THE USE OF EQUIPMENT, FACILITIES, AND PERSONNEL UNDER SUBSECTION
11 (A)(2) OF THIS SECTION MAY NOT SUBSTANTIALLY INTERFERE WITH THE NORMAL
12 DUTIES OF A LAW ENFORCEMENT AGENCY, FIRE COMPANY, OR RESCUE SQUAD
13 LOCATED OUTSIDE AN AREA DESIGNATED BY THE GOVERNOR AS AN EMERGENCY
14 AREA.

15 (C) AUTHORITY OF STATE POLICE TO ASSIST LOCAL LAW ENFORCEMENT.

16 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF THE
17 GOVERNOR PROCLAIMS THAT A STATE OF EMERGENCY EXISTS, THE DEPARTMENT
18 OF STATE POLICE MAY TAKE ANY ACTION IT CONSIDERS NECESSARY TO ASSIST
19 LOCAL LAW ENFORCEMENT AGENCIES.

20 (2) ANY ACTION THAT THE DEPARTMENT OF STATE POLICE TAKES
21 UNDER THIS SUBSECTION SHALL BE REASONABLY CALCULATED EFFECTIVELY TO
22 CONTROL AND TERMINATE THE PUBLIC EMERGENCY.

23 (D) DUTY OF LOCAL LAW ENFORCEMENT TO NOTIFY SECRETARY OF
24 DISTURBANCE.

25 A LAW ENFORCEMENT AGENCY OF A COUNTY OR MUNICIPAL CORPORATION
26 SHALL NOTIFY THE SECRETARY OF STATE POLICE IF THE LOCAL LAW
27 ENFORCEMENT AGENCY RECEIVES NOTICE OF A THREATENED OR ACTUAL
28 DISTURBANCE THAT INDICATES THE POSSIBILITY OF SERIOUS DOMESTIC VIOLENCE.

29 (E) PERSON DESIGNATED BY GOVERNOR TO DIRECT OPERATIONS.

30 EXCEPT AS PROVIDED IN § 14-306 OF THIS SUBTITLE, EACH LAW ENFORCEMENT
31 AGENCY, FIRE COMPANY, OR RESCUE SQUAD OF THE STATE, A COUNTY, OR
32 MUNICIPAL CORPORATION WITHIN AN EMERGENCY AREA SHALL OPERATE UNDER
33 THE DIRECTION OF THE PERSON DESIGNATED BY ORDER OF THE GOVERNOR.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 41, § 2-101(d) and (b)(4).

36 In the introductory language of subsection (a) and in subsection (e) of this
37 section, the former reference to "city" law enforcement bodies or officials,

1 fire companies, and rescue squads is deleted as included in the reference to
2 those of a "municipal corporation" to conform to Md. Constitution, Art.
3 XI-E. Similarly, in subsection (d) of this section, the former reference to a
4 "city" law enforcement agency is deleted.

5 In the introductory language of subsection (a) of this section, the reference
6 to law enforcement "agenc[ies]" is substituted for the former reference to
7 law enforcement "bodies" for consistency with terminology used
8 throughout this subtitle and this article. Similarly, in subsection (e) of this
9 section, the reference to law enforcement "agencies" is substituted for the
10 former reference to law enforcement "officials" for consistency within this
11 section.

12 Also in the introductory language of subsection (a) of this section, the
13 former phrase "of this State" is deleted as implicit in the reference to "each
14 law enforcement agency, fire company, or rescue squad of the State, a
15 county, or municipal corporation".

16 In subsection (a)(2) of this section, the word "personnel" is substituted for
17 the former word "manpower" to use a gender-neutral equivalent term.

18 Also in subsection (a)(2) of this section, the former phrase "as they may
19 possess" is deleted as implicit.

20 In subsection (c)(1) of this section, the reference to local "law enforcement
21 agencies" is substituted for the former reference to local "police" for
22 consistency within this section.

23 Defined terms: "County" § 1-101

24 "Public emergency" § 14-301

25 14-306. MILITIA.

26 (A) "MILITIA" DEFINED.

27 IN THIS SECTION, "MILITIA" MEANS THE ORGANIZED AND UNORGANIZED
28 MILITIA AS DESCRIBED IN § 13-203 OF THIS ARTICLE.

29 (B) AUTHORITY OF GOVERNOR TO CALL MILITIA INTO ACTION.

30 IF THE GOVERNOR PROCLAIMS THAT A STATE OF EMERGENCY EXISTS, THE
31 GOVERNOR MAY CALL THE MILITIA INTO ACTION.

32 (C) POWER OF MILITIA.

33 (1) THE MILITIA SHALL HAVE FULL POWER AND RESPONSIBILITY FOR
34 THE AREA DESIGNATED BY THE GOVERNOR AS AN EMERGENCY AREA.

35 (2) EACH LAW ENFORCEMENT AGENCY, LAW ENFORCEMENT OFFICIAL,
36 FIRE COMPANY, AND RESCUE SQUAD IN THE EMERGENCY AREA, INCLUDING THE

1 DEPARTMENT OF STATE POLICE, SHALL COOPERATE WITH THE MILITIA AND
2 OPERATE UNDER ITS DIRECTION.

3 (D) AUTHORITY OF LOCAL GOVERNMENTS TO REQUEST MILITIA.

4 THE CHIEF EXECUTIVE OFFICER OR GOVERNING BODY OF A COUNTY OR
5 MUNICIPAL CORPORATION MAY REQUEST THE GOVERNOR TO PROVIDE THE MILITIA
6 TO HELP BRING UNDER CONTROL CONDITIONS EXISTING WITHIN THE COUNTY OR
7 MUNICIPAL CORPORATION THAT, IN THE REQUESTOR'S JUDGMENT, THE LOCAL LAW
8 ENFORCEMENT AGENCIES CANNOT CONTROL WITHOUT ADDITIONAL PERSONNEL.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 41, § 2-101(e) and (b)(5).

11 Throughout this section, references to the "militia" are substituted for the
12 former references to the militia "forces" to use the defined term.

13 In subsection (a) of this section, the word "described" is substituted for the
14 former word "defined" because former Art. 65, § 5 described, rather than
15 defined, the organized and unorganized militia. *See* § 13-203 of this
16 article.

17 In subsection (c)(2) of this section, the references to a "law enforcement
18 agency" and "law enforcement official" are substituted for the former
19 references to "police forces" and "police officials" for consistency with
20 terminology used throughout this section and this subtitle.

21 In subsection (d) of this section, the former word "city" is deleted as
22 included in the reference to a "municipal corporation" to conform to Md.
23 Constitution, Art. XI-E.

24 Defined term: "County" § 1-101

25 14-307. GENERAL CESSATION OF BUSINESS DURING EMERGENCY; CLOSING OF
26 BANKING INSTITUTION.

27 (A) "EMERGENCY" DEFINED.

28 IN THIS SECTION, "EMERGENCY" INCLUDES AN EMERGENCY THAT RESULTS
29 FROM FIRE, FLOOD, RIOT, ROBBERY, WEATHER, OR OTHER CAUSE.

30 (B) GENERAL CESSATION OF BUSINESS DURING EMERGENCY.

31 IF AN EMERGENCY EXISTS IN A POLITICAL SUBDIVISION, THE GOVERNOR MAY
32 PROCLAIM A DAY FOR THE GENERAL CESSATION OF BUSINESS IN THAT POLITICAL
33 SUBDIVISION.

34 (C) CLOSING OF BANKING INSTITUTION.

35 IF AN EMERGENCY EXISTS AS TO A BANKING INSTITUTION, THE GOVERNOR:

1 (1) MAY PROCLAIM A DAY ON WHICH THE BANKING INSTITUTION MAY
2 REMAIN CLOSED; AND

3 (2) SHALL LIMIT THE PROCLAMATION TO THE PRINCIPAL BANKING
4 OFFICE AND BRANCH OFFICES OF THE BANKING INSTITUTION THAT THE
5 EMERGENCY AFFECTS.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 41, § 2-103.

8 14-308. DUTY OF STATE TO REPAIR DAMAGED PROPERTY.

9 THE STATE SHALL REPAIR OR REPLACE ANY EQUIPMENT, FACILITIES, OR
10 PROPERTY THAT IS DAMAGED WHILE BEING USED IN ACCORDANCE WITH THE
11 PROCLAMATION OF A STATE OF EMERGENCY.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 41, § 2-101(f).

14 14-309. PROHIBITED ACTS; PENALTIES.

15 (A) VIOLATION OF SUBTITLE, ORDER, RULE, OR REGULATION PROHIBITED.

16 A PERSON MAY NOT VIOLATE THIS SUBTITLE OR AN ORDER, RULE, OR
17 REGULATION PROMULGATED UNDER THIS SUBTITLE.

18 (B) FRAUDULENT REPRESENTATIONS PROHIBITED.

19 IN MEETING THE REQUIREMENTS OF AN ORDER, RULE, OR REGULATION
20 PROMULGATED UNDER THIS SUBTITLE OR IN APPLYING FOR A SERVICE OR BENEFIT
21 PROVIDED BY THE STATE IN THE ALLOCATION OR ASSIGNMENT OF ENERGY
22 SUPPLIES, A PERSON MAY NOT WILLFULLY:

23 (1) CONCEAL A MATERIAL FACT;

24 (2) MAKE A FALSE, FICTITIOUS, OR FRAUDULENT STATEMENT OR
25 REPRESENTATION; OR

26 (3) USE A FALSE WRITING OR DOCUMENT THAT CONTAINS A FALSE,
27 FICTITIOUS, OR FRAUDULENT STATEMENT.

28 (C) PENALTY.

29 (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
30 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
31 EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

32 (2) A VIOLATION OF THE MARYLAND VEHICLE LAW FOR WHICH A
33 PENALTY IS PROVIDED IS NOT SUBJECT TO THE PENALTIES OF THIS SECTION.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 41, §§ 2-102 and 2-101(g).

3 Defined term: "Person" § 1-101

4 GENERAL REVISOR'S NOTE TO SUBTITLE:

5 Former Art. 41, § 2-101(h), which declared that the provisions of former Title 2,
6 Subtitle 1 of Article 41 were severable, is deleted as unnecessary. Article 1, § 23 states
7 that the provisions of statutes enacted after July 1, 1973, are severable unless the
8 statute specifically provides that they are not. Since the Public Safety Article was
9 enacted after July 1, 1973, a severability clause is unnecessary in this subtitle.

10 SUBTITLE 4. OTHER EMERGENCY POWERS AND PROVISIONS.

11 14-401. "LOCAL GOVERNING BODY" DEFINED.

12 IN THIS SUBTITLE, "LOCAL GOVERNING BODY" MEANS:

13 (1) A BOARD OF COUNTY COMMISSIONERS;

14 (2) A COUNTY COUNCIL; OR

15 (3) THE MAYOR AND CITY COUNCIL OF BALTIMORE.

16 REVISOR'S NOTE: This section is new language added to avoid repetition of
17 the complete phrase "board of county commissioners or county council or
18 Mayor and City Council of Baltimore City".

19 Defined term: "County" § 1-101

20 14-402. MAJORITY OF LOCAL GOVERNING BODY KILLED, SICK, OR UNAVAILABLE.

21 (A) PERIOD OF APPLICABILITY.

22 THE POWERS IN THIS SECTION MAY BE EXERCISED ONLY DURING THE
23 EFFECTIVE PERIOD OF AN OFFICIAL PROCLAMATION BY THE GOVERNOR THAT
24 DECLARES ALL OR PART OF THE COUNTY TO BE IN AN ACTUAL OR THREATENED
25 EMERGENCY AREA.

26 (B) AUTHORITY OF GOVERNOR TO EXERCISE POWERS OF LOCAL GOVERNING
27 BODY.

28 IF A MAJORITY OF THE MEMBERS OF THE LOCAL GOVERNING BODY OF A
29 COUNTY ARE KILLED OR ARE SICK, INCAPACITATED, MISSING, OR OTHERWISE
30 UNAVAILABLE FOR A TEMPORARY OR INDEFINITE PERIOD BECAUSE OF A MILITARY
31 OR WARLIKE CATASTROPHE, THE GOVERNOR MAY EXERCISE THE ADMINISTRATIVE
32 AND EXECUTIVE POWERS OF THAT LOCAL GOVERNING BODY UNTIL THE NUMBER OF
33 MEMBERS OF THE LOCAL GOVERNING BODY SUFFICIENT TO OPERATE THE COUNTY
34 GOVERNMENT ARE APPOINTED AND QUALIFY.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 16A, § 32.

3 In subsection (a) of this section, the former reference that the powers in
4 this section "exist" is deleted as implicit in the reference that the powers
5 "may be exercised".

6 In subsection (b) of this section, the reference to the powers "of" the local
7 governing body is substituted for the former reference to the powers
8 "provided by law for" the local governing body for brevity.

9 Defined terms: "County" § 1-101

10 "Local governing body" § 14-401

11 14-403. EXECUTIVE OFFICER KILLED, SICK, OR UNAVAILABLE.

12 (A) "EXECUTIVE OFFICER" DEFINED.

13 IN THIS SECTION, "EXECUTIVE OFFICER" MEANS THE MAYOR OR COMPARABLE
14 OFFICIAL OF THE LEGISLATIVE BODY OF A MUNICIPAL CORPORATION OF THE STATE.

15 (B) PERIOD OF APPLICABILITY.

16 THE POWERS IN THIS SECTION MAY BE EXERCISED ONLY DURING THE
17 EFFECTIVE PERIOD OF AN OFFICIAL PROCLAMATION BY THE GOVERNOR THAT
18 DECLARES ALL OR PART OF THE MUNICIPAL CORPORATION TO BE IN AN ACTUAL OR
19 THREATENED EMERGENCY AREA.

20 (C) AUTHORITY OF LOCAL GOVERNING BODY TO FILL VACANCY.

21 (1) IF AN EXECUTIVE OFFICER IS KILLED OR IS SICK, INCAPACITATED,
22 MISSING, OR OTHERWISE UNAVAILABLE FOR A TEMPORARY OR INDEFINITE PERIOD
23 BECAUSE OF A MILITARY OR WARLIKE CATASTROPHE, AND THE MUNICIPAL
24 CORPORATION IS UNABLE TO FILL THAT VACANCY FOR A TEMPORARY OR
25 INDEFINITE PERIOD, THE LOCAL GOVERNING BODY OF THE COUNTY IN WHICH THE
26 MUNICIPAL CORPORATION IS LOCATED MAY APPOINT AN INDIVIDUAL TO FILL THE
27 VACANCY FOR A TEMPORARY OR INDEFINITE PERIOD.

28 (2) IF THE VACANCY IS IN A MUNICIPAL CORPORATION THAT IS
29 LOCATED IN MORE THAN ONE COUNTY:

30 (I) THE LOCAL GOVERNING BODY OF ANY OF THE COUNTIES IN
31 WHICH PART OF THE MUNICIPAL CORPORATION IS LOCATED MAY APPOINT AN
32 INDIVIDUAL TO FILL THE VACANCY; OR

33 (II) THE LOCAL GOVERNING BODIES OF THE COUNTIES MAY AGREE
34 TO APPOINT AN INDIVIDUAL TO FILL THE VACANCY.

35 (D) QUALIFICATIONS OF APPOINTEES.

1 TO THE EXTENT POSSIBLE, EACH APPOINTEE SHALL HAVE THE
2 QUALIFICATIONS REQUIRED FOR THE PARTICULAR OFFICE TO WHICH APPOINTED.

3 (E) POWERS OF APPOINTEES.

4 EACH APPOINTEE MAY EXERCISE THE POWERS AND PREROGATIVES OF AN
5 OFFICER ELECTED TO THE POSITION.

6 (F) TENURE OF APPOINTEES.

7 EACH APPOINTEE SHALL HOLD OFFICE UNTIL:

8 (1) THE EXECUTIVE OFFICER ORIGINALLY HOLDING THE POSITION
9 RETURNS TO THE POSITION; OR

10 (2) THE POSITION IS FILLED BY THE REGULAR ELECTION AND
11 QUALIFICATION OF A SUCCESSOR.

12 (G) AUTHORITY OF GOVERNOR TO EXERCISE POWERS OF MUNICIPAL
13 GOVERNMENT.

14 UNDER THE CIRCUMSTANCES DESCRIBED IN THIS SECTION, THE GOVERNOR
15 MAY EXERCISE THE EXECUTIVE AND ADMINISTRATIVE POWERS OF THE MUNICIPAL
16 GOVERNMENT UNTIL THE NUMBER OF INDIVIDUALS SUFFICIENT TO OPERATE THE
17 MUNICIPAL GOVERNMENT ARE APPOINTED AND QUALIFIED AS EXECUTIVE
18 OFFICERS.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 16A, § 33.

21 In subsection (a) of this section, the defined term "executive officer" is
22 added for brevity to avoid the use of the cumbersome phrase "the mayor or
23 comparable official of the town council or comparable body, or any of them,
24 of any municipal corporation covered by the provisions of Article XI-E of
25 the Constitution of Maryland", and to provide clarity and consistency
26 throughout the rest of the section.

27 In subsection (b) of this section, the former reference that the powers in
28 this section "exist" is deleted as implicit in the reference that the powers
29 "may be exercised".

30 Also in subsection (b) of this section, the former reference to the
31 "corporate" boundaries of the municipal corporation is deleted as
32 redundant.

33 In subsection (c)(1) of this section, the reference to appointing an
34 "individual" is substituted for the former reference to a "person" because
35 only individuals, and not the other entities included in the defined term
36 "person", may hold office. Similarly, in subsection (g) of this section, the
37 reference to the number of "individuals" sufficient to operate the municipal

1 government is substituted for the former reference to the number of
2 "persons".

3 In subsection (c)(2)(ii) of this section, the former reference that the
4 counties "by agreement may collaborate" in the appointments is deleted as
5 unnecessary in light of the reference the counties "may agree".

6 In subsection (e) of this section, the former phrase "[d]uring the tenure of
7 any such appointee" is deleted because by definition the appointee would
8 only be an appointee during his or her tenure.

9 Also in subsection (e) of this section, the former reference to "regularly"
10 elected officers is deleted as surplusage.

11 In subsection (f) of this section, the phrase "until ... the executive officer
12 originally holding the position returns to the position" is substituted for
13 the former phrase "during the incapacity or unavailability of the officer
14 whose position he was appointed to fill" for clarity and consistency. The
15 former phrase was incomplete because it did not list all the reasons
16 provided in subsection (c)(1) of this section that an officer could be
17 unavailable.

18 In subsection (g) of this section, the reference to appointment "as executive
19 officers" is substituted for the former reference to appointment "to fill the
20 vacancies" for clarity and consistency in this section.

21 Defined terms: "County" § 1-101

22 "Local governing body" § 14-401

23 14-404. MEMBER OF GOVERNING BODY OF TAX DISTRICT KILLED, SICK, OR
24 UNAVAILABLE.

25 (A) "TAX DISTRICT" DEFINED.

26 IN THIS SECTION, "TAX DISTRICT" INCLUDES:

- 27 (1) A SPECIAL TAX AREA;
28 (2) A SPECIAL TAX DISTRICT;
29 (3) A SANITARY DISTRICT; AND
30 (4) A WATER DISTRICT.

31 (B) PERIOD OF APPLICABILITY.

32 THE POWERS IN THIS SECTION MAY BE EXERCISED ONLY DURING THE
33 EFFECTIVE PERIOD OF AN OFFICIAL PROCLAMATION BY THE GOVERNOR THAT
34 DECLARES ALL OR PART OF THE TAX DISTRICT TO BE IN AN ACTUAL OR THREATENED
35 EMERGENCY AREA.

1 (C) AUTHORITY OF GOVERNOR TO EXERCISE POWERS OF TAX DISTRICT.

2 IF A MAJORITY OF THE MEMBERS OF THE GOVERNING BODY OF A TAX DISTRICT
3 IN THE STATE ARE KILLED OR ARE SICK, INCAPACITATED, MISSING, OR OTHERWISE
4 UNAVAILABLE FOR A TEMPORARY OR INDEFINITE PERIOD BECAUSE OF A MILITARY
5 OR WARLIKE CATASTROPHE, AND THE TAX DISTRICT IS UNABLE TO FUNCTION
6 NORMALLY FOR A TEMPORARY OR INDEFINITE PERIOD, THE GOVERNOR MAY
7 EXERCISE THE EXECUTIVE AND ADMINISTRATIVE POWERS OF THE TAX DISTRICT
8 UNTIL THE NUMBER OF MEMBERS OF THE GOVERNING BODY OF THE TAX DISTRICT
9 SUFFICIENT TO OPERATE THE GOVERNING BODY ARE APPOINTED AND QUALIFIED
10 IN ACCORDANCE WITH THE PROCEDURES OF THE GOVERNING BODY.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 16A, § 34.

13 In subsection (a) of this section, the defined term "tax district" is added for
14 brevity to avoid unnecessary repetition of the former phrase "special tax
15 area or special tax district (including a sanitary district or water district)".

16 In subsection (b) of this section, the former reference that the powers in
17 this section "exist" is deleted as implicit in the reference that the powers
18 "may be exercised".

19 In subsection (c) of this section, the phrase "in accordance with the
20 procedures of the governing body" is substituted for the former phrase
21 "according to the particular manner of filling vacancies in the governing
22 body" for clarity and consistency with the style of this revised section.

23 Also in subsection (c) of this section, the former phrase "by whatever name
24 known", which modified "governing body", is deleted as surplusage.

25 14-405. POWERS OF LOCAL GOVERNING BODY DURING MILITARY OR WARLIKE
26 CATASTROPHE.

27 (A) CONDITIONS AND PERIOD OF APPLICABILITY.

28 (1) IF THERE IS SERIOUS HUMAN SUFFERING, DEATH, PERSONAL
29 INJURY, OR PROPERTY DAMAGE IN A COUNTY BECAUSE OF A MILITARY OR WARLIKE
30 CATASTROPHE, THE LOCAL GOVERNING BODY HAS THE POWERS GRANTED IN THIS
31 SECTION.

32 (2) THE POWERS IN THIS SECTION MAY BE EXERCISED ONLY DURING
33 THE EFFECTIVE PERIOD OF AN OFFICIAL PROCLAMATION BY THE GOVERNOR THAT
34 DECLARES ALL OR PART OF THE COUNTY TO BE IN AN ACTUAL OR THREATENED
35 EMERGENCY AREA.

36 (B) POWER TO BORROW MONEY OR CONTRACT FOR MATERIALS OR SERVICES.

37 THE LOCAL GOVERNING BODY MAY BORROW MONEY OR CONTRACT FOR
38 MATERIALS OR SERVICES ON THE FAITH AND CREDIT OF THE COUNTY.

1 (C) POWER TO ISSUE BONDS, NOTES, OR CERTIFICATES OF INDEBTEDNESS.

2 (1) TO PAY FOR THE MONEY BORROWED OR THE MATERIALS OR
3 SERVICES CONTRACTED FOR UNDER SUBSECTION (B) OF THIS SECTION, THE LOCAL
4 GOVERNING BODY MAY ISSUE BONDS, NOTES, OR OTHER CERTIFICATES OF
5 INDEBTEDNESS ON THE FAITH AND CREDIT OF THE COUNTY TO A PERSON OR
6 GOVERNMENTAL UNIT THAT LENDS THE MONEY OR SUPPLIES THE MATERIALS OR
7 SERVICES.

8 (2) THE LOCAL GOVERNING BODY MAY SET THE TERMS, CONDITIONS,
9 RATE OF INTEREST, AND PROVISIONS FOR REPAYMENT OF THE BONDS, NOTES, OR
10 OTHER CERTIFICATES OF INDEBTEDNESS ISSUED UNDER THIS SUBSECTION.

11 (D) POWER TO IMPOSE LEVY ON TAXABLE PROPERTY.

12 THE LOCAL GOVERNING BODY MAY IMPOSE A SPECIAL LEVY ON TAXABLE
13 PROPERTY IN THE COUNTY IN AN AMOUNT SUFFICIENT TO:

14 (1) PAY FOR THE MONEY BORROWED OR THE MATERIALS AND SERVICES
15 CONTRACTED FOR UNDER SUBSECTION (B) OF THIS SECTION; AND

16 (2) MAKE ALL PAYMENTS OF PRINCIPAL AND INTEREST ON THE BONDS,
17 NOTES, OR OTHER CERTIFICATES OF INDEBTEDNESS ISSUED UNDER SUBSECTION
18 (C) OF THIS SECTION THAT ARE OUTSTANDING.

19 (E) COOPERATION WITH OTHER GOVERNMENTAL UNITS.

20 MONEY, MATERIALS, OR SERVICES OBTAINED UNDER SUBSECTION (B) OF THIS
21 SECTION MAY BE SECURED, EXPENDED, OR USED IN COOPERATION WITH OTHER
22 GOVERNMENTAL UNITS ON A MATCHING BASIS OR OTHERWISE AS DETERMINED BY
23 THE LOCAL GOVERNING BODY.

24 (F) WAIVER OF LEGAL RESTRICTIONS OR DELAYING PROCEDURES.

25 ANY LEGAL RESTRICTIONS OR DELAYING PROCEDURES ARE WAIVED AND MAY
26 BE DISREGARDED BY THE LOCAL GOVERNING BODY AS TO:

27 (1) THE PURCHASE, LEASE, OR RENTAL OF MATERIALS AND
28 EQUIPMENT;

29 (2) THE SECURING AND HIRING OF PERSONAL SERVICES;

30 (3) THE FACE VALUE OF NOTES, BONDS, OR OTHER CERTIFICATES OF
31 INDEBTEDNESS THAT MAY BE ISSUED AND OUTSTANDING; OR

32 (4) THE RATE OF TAXATION THAT MAY BE IMPOSED.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 16A, § 35.

35 In subsection (a)(1) of this section, the former phrase "or any of these

1 conditions" is deleted as unnecessary in light of the reference to serious
2 human suffering, death, personal injury, "or" property damage. Similarly,
3 in subsection (b) of this section, the former phrase "or any of them" is
4 deleted as unnecessary in light of the reference to money "or" materials
5 "or" services.

6 In subsection (a)(2) of this section, the reference that the powers in this
7 section "may be exercised" is substituted for the former reference that the
8 local governing body "has" the powers for consistency throughout this
9 subtitle.

10 In subsection (b) of this section, the former phrase "[i]n such event" is
11 deleted as unnecessary because subsection (a) of this section establishes
12 the conditions under which this section applies.

13 In subsection (c)(1) of this section, the phrase "under subsection (b) of this
14 section" is added for clarity.

15 In subsection (c)(2) of this section, the phrase "under this subsection" is
16 added for clarity.

17 In subsection (d) of this section, the former phrase "for the same purpose,
18 and in order to make payments of principal and interest on any such
19 certificates of indebtedness" is deleted as redundant in light of subsection
20 (d)(1) and (2) of this section.

21 Defined terms: "County" § 1-101

22 "Local governing body" § 1-101

23 "Person" § 1-101

24 14-406. EFFECTIVE PERIOD OF LAWS, ORDINANCES, RESOLUTIONS, AND
25 REGULATIONS.

26 (A) IN GENERAL.

27 EACH LAW, ORDINANCE, RESOLUTION, OR REGULATION OF THE STATE, A
28 POLITICAL SUBDIVISION OF THE STATE, OR A UNIT OF STATE OR LOCAL
29 GOVERNMENT THAT RELATES TO OR CONCERNS AN ACTUAL OR THREATENED
30 EMERGENCY OR MILITARY OR WARLIKE CATASTROPHE MAY BE APPLIED DURING
31 THE EFFECTIVE PERIOD OF AN OFFICIAL PROCLAMATION BY THE GOVERNOR THAT
32 DECLARES ALL OR PART OF THE PARTICULAR AREA TO BE IN AN ACTUAL OR
33 THREATENED EMERGENCY AREA.

34 (B) EFFECT OF SECTION.

35 THIS SECTION DOES NOT QUALIFY OR REDUCE THE POWERS OF EMERGENCY
36 MANAGEMENT AGENCIES THAT ARE EFFECTIVE WITHOUT THE EXISTENCE OF AN
37 EMERGENCY OR PROCLAMATION BY THE GOVERNOR.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 16A, § 36.

3 In subsection (a) of this section, the reference to a "unit of State or local
4 government" is substituted for the former phrase "any board, department,
5 bureau, commission, or other agency of the State or of one of its political
6 subdivisions" for clarity.

7 Also in subsection (a) of this section, the former reference to laws,
8 ordinances, resolutions, and regulations that "are applicable" is deleted as
9 implicit in the reference that they "may be applied".

10 SUBTITLE 5. STATE STANDBY PETROLEUM FUEL SET-ASIDE PROGRAM.

11 14-501. DEFINITIONS.

12 (A) IN GENERAL.

13 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

14 REVISOR'S NOTE: This subsection formerly was Art. 41, § 10-801(a).

15 No changes are made.

16 (B) ADMINISTRATION.

17 "ADMINISTRATION" MEANS THE MARYLAND ENERGY ADMINISTRATION.

18 REVISOR'S NOTE: This subsection is new language added to avoid repetition
19 of the full title of the "Maryland Energy Administration".

20 (C) ASSIGNMENT.

21 "ASSIGNMENT" MEANS A WRITTEN AUTHORIZATION BY THE ADMINISTRATION
22 THAT ORDERS A SPECIFIED SUPPLIER TO SUPPLY STATE SET-ASIDE PRODUCTS TO A
23 SPECIFIED PURCHASER.

24 REVISOR'S NOTE: This subsection is new language derived without
25 substantive change from former Art. 41, § 10-801(c).

26 Defined terms: "Administration" § 14-501

27 "State set-aside product" § 14-501

28 "Supplier" § 14-501

29 (D) DIRECTOR.

30 "DIRECTOR" MEANS THE DIRECTOR OF THE ADMINISTRATION.

31 REVISOR'S NOTE: This subsection is new language added to avoid repetition
32 of the full title of the Director of the Maryland Energy Administration.

1 Defined term: "Administration" § 14-501

2 (E) ENERGY EMERGENCY.

3 "ENERGY EMERGENCY" HAS THE MEANING STATED IN § 14-301 OF THIS TITLE.

4 REVISOR'S NOTE: This subsection is new language derived without
5 substantive change from former Art. 41, § 10-801(g).

6 (F) PERSON.

7 "PERSON" INCLUDES A FEDERAL, STATE, OR LOCAL GOVERNMENT OR AN
8 AGENCY OR INSTRUMENTALITY OF A FEDERAL, STATE, OR LOCAL GOVERNMENT.

9 REVISOR'S NOTE: This subsection is new language derived without
10 substantive change from former Art. 41, § 10-801(j).

11 The word "includes" is substituted for the former word "means" because
12 the definition of "person" in this subsection is not exhaustive but rather
13 expands the definition of "person" in § 1-101 of this article.

14 The former reference to "any natural person, company, firm, cooperative,
15 partnership, corporation, association, consortium, unincorporated
16 organization, trust, estate, any entity organized for a common business
17 purpose" is deleted as included in the article-wide definition of "person".
18 *See* § 1-101 of this article.

19 Defined term: "Person" § 1-101

20 (G) PRIME SUPPLIER.

21 "PRIME SUPPLIER" MEANS THE SUPPLIER WHO MAKES THE FIRST SALE INTO
22 THE STATE DISTRIBUTION SYSTEM OF A STATE SET-ASIDE PRODUCT THAT IS
23 INTENDED FOR CONSUMPTION IN THE STATE.

24 REVISOR'S NOTE: This subsection is new language derived without
25 substantive change from former Art. 41, § 10-801(k).

26 Defined terms: "State set-aside product" § 14-501

27 "Supplier" § 14-501

28 (H) STATE SET-ASIDE PRODUCT.

29 "STATE SET-ASIDE PRODUCT" MEANS A PRODUCT TO WHICH THE STATE
30 SET-ASIDE PROGRAM APPLIES.

31 REVISOR'S NOTE: This subsection is new language added for consistency
32 throughout this subtitle and to avoid repetition of longer references such
33 as "a product that is subject to the State set-aside program".

34 Defined term: "State set-aside program" § 14-501

1 (I) STATE SET-ASIDE PROGRAM.

2 "STATE SET-ASIDE PROGRAM" MEANS THE STATE STANDBY PETROLEUM FUEL
3 SET-ASIDE PROGRAM.

4 REVISOR'S NOTE: This subsection is new language added to provide clear and
5 consistent references throughout this subtitle for former references such as
6 the "State set-aside", "State standby set-aside program", and "the
7 program established under this subtitle".

8 (J) STATE SET-ASIDE VOLUME.

9 "STATE SET-ASIDE VOLUME" MEANS THE STATE SET-ASIDE PERCENTAGE
10 LEVEL FOR A PARTICULAR STATE SET-ASIDE PRODUCT APPLIED TO A PARTICULAR
11 PRIME SUPPLIER'S ESTIMATED PART OF ITS TOTAL SUPPLY FOR A PARTICULAR TIME
12 PERIOD THAT WILL BE SOLD INTO THE STATE DISTRIBUTION SYSTEM FOR
13 CONSUMPTION IN THE STATE.

14 REVISOR'S NOTE: This subsection is new language derived without
15 substantive change from former Art. 41, § 10-801(n).

16 Defined terms: "Prime supplier" § 14-501

17 "State set-aside product" § 14-501

18 (K) SUPPLIER.

19 "SUPPLIER" MEANS A BUSINESS ENTITY OR A PART OR SUBSIDIARY OF A
20 BUSINESS ENTITY THAT SUPPLIES, SELLS, TRANSFERS, OR OTHERWISE FURNISHES,
21 INCLUDING BY CONSIGNMENT, A STATE SET-ASIDE PRODUCT TO CONSUMERS OR
22 WHOLESALE PURCHASER-RESELLERS.

23 REVISOR'S NOTE: This subsection is new language derived without
24 substantive change from former Art. 41, § 10-801(o).

25 The references to a "business entity" are substituted for the former
26 references to a "firm" to use a more general term in the context of this
27 provision.

28 Defined terms: "State set-aside product" § 14-501

29 "Wholesale purchaser-reseller" § 14-501

30 (L) WHOLESALE PURCHASER-RESELLER.

31 "WHOLESALE PURCHASER-RESELLER" MEANS A BUSINESS ENTITY THAT:

32 (1) PURCHASES, RECEIVES THROUGH TRANSFER, OR OTHERWISE
33 OBTAINS, INCLUDING BY CONSIGNMENT, A STATE SET-ASIDE PRODUCT; AND

34 (2) RESELLS OR OTHERWISE TRANSFERS THE STATE SET-ASIDE
35 PRODUCT TO OTHER PURCHASERS WITHOUT SUBSTANTIALLY CHANGING ITS FORM.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 41, § 10-801(s).

3 In the introductory language of this subsection, reference to a "business
4 entity" is substituted for the former reference to a "firm" to use a more
5 general term in the context of this provision.

6 Defined term: "State set-aside product" § 14-501

7 REVISOR'S NOTE TO SECTION: Former Art. 41, § 10-801(b), (d), (e), (f), (h),
8 (i), (l), (m), (p), (q), and (r), which defined various terms for purposes of this
9 subtitle, are revised in the substantive provisions to which the definitions
10 apply. *See* §§ 14-503 and 14-504 of this subtitle.

11 14-502. ESTABLISHED; ADMINISTRATION AND ENFORCEMENT.

12 (A) ESTABLISHED.

13 THE ADMINISTRATION SHALL MAINTAIN PLANS AND PROCEDURES TO CARRY
14 OUT A STATE STANDBY PETROLEUM FUEL SET-ASIDE PROGRAM FOR USE DURING AN
15 ENERGY EMERGENCY.

16 (B) ADMINISTRATION AND ENFORCEMENT.

17 THE DIRECTOR SHALL ADMINISTER AND ENFORCE THE STATE SET-ASIDE
18 PROGRAM.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 41, §§ 10-802(a) and 10-804(a).

21 In subsection (a) of this section, the former reference to "establish[ing]" the
22 program is deleted to reflect the fact that the State set-aside program has
23 been established.

24 Also in subsection (a) of this section, the former reference to maintaining
25 plans and procedures "in a state of readiness" is deleted as implicit in the
26 requirement to maintain plans and procedures to carry out the State
27 set-aside program.

28 In subsection (b) of this section, the former reference to the "proper"
29 administration and enforcement of the State set-aside program is deleted
30 as implicit in the requirement that the Director administer and enforce the
31 State set-aside program.

32 Defined terms: "Administration" § 14-501

33 "Director" § 14-501

34 "Energy emergency" § 14-501

35 "State set-aside program" § 14-501

1 14-503. APPLICABILITY OF STATE SET-ASIDE PROGRAM.

2 (A) IN GENERAL.

3 (1) THE STATE SET-ASIDE PROGRAM APPLIES TO:

4 (I) MOTOR GASOLINE;

5 (II) MIDDLE DISTILLATE;

6 (III) PROPANE;

7 (IV) RESIDUAL FUEL OIL, EXCEPT AS PROVIDED IN PARAGRAPH (2)
8 OF THIS SUBSECTION; AND

9 (V) AVIATION GASOLINE.

10 (2) THE STATE SET-ASIDE PROGRAM DOES NOT APPLY TO RESIDUAL
11 FUEL OIL THAT IS USED:

12 (I) IN AN ELECTRIC GENERATING STATION BY AN ELECTRIC
13 COMPANY, AS DEFINED IN § 1-101 OF THE PUBLIC UTILITY COMPANIES ARTICLE; OR

14 (II) AS BUNKER FUEL FOR MARINE SHIPPING.

15 (B) STATE SET-ASIDE PERCENTAGE LEVELS.

16 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DIRECTOR:

17 (I) SHALL DETERMINE THE APPROPRIATE STATE SET-ASIDE
18 PERCENTAGE LEVEL FOR EACH STATE SET-ASIDE PRODUCT; AND

19 (II) MAY REVIEW AND REVISE THE STATE SET-ASIDE PERCENTAGE
20 LEVELS AS THE DIRECTOR CONSIDERS APPROPRIATE.

21 (2) THE STATE SET-ASIDE PERCENTAGE LEVELS MAY NOT EXCEED:

22 (I) 5% FOR MOTOR GASOLINE;

23 (II) 4% FOR MIDDLE DISTILLATES;

24 (III) 3% FOR PROPANE;

25 (IV) 3% FOR RESIDUAL FUEL OIL; AND

26 (V) 2% FOR AVIATION GASOLINE.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 41, §§ 10-801(e) and 10-802(b) and (c).

29 In subsection (a)(1) of this section, the reference that the State set-aside
30 programs "applies to" certain products is substituted for the former

1 reference to the program being "established for" certain products because
2 the program has already been established.

3 In subsection (b)(2)(iv) of this section, the former exception for residual fuel
4 oil "as used in electric generating stations ... or as bunker fuel for marine
5 shipping" is deleted as unnecessary in light of the exception to the
6 applicability of the State set-aside program to residual fuel oil as specified
7 in subsection (a)(2) of this section.

8 The Public Safety Article Review Committee notes, for consideration by the
9 General Assembly, that the Electric Customer Choice and Competition Act
10 of 1999 (Restructuring Act) makes the reference to electric companies in
11 the context of subsection (a)(2)(i) of this section ambiguous because electric
12 companies no longer generate electricity. The General Assembly may wish
13 to amend subsection (a)(2)(i) of this section to reflect this.

14 Defined terms: "Director" § 14-501

15 "State set-aside product" § 14-501

16 "State set-aside program" § 14-501

17 14-504. USE OF STATE SET-ASIDE PROGRAM DURING ENERGY EMERGENCY.

18 (A) DEFINITIONS.

19 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
20 INDICATED.

21 (2) "GROSS VEHICLE WEIGHT RATING" MEANS:

22 (I) FOR A SINGLE VEHICLE, THE VALUE SPECIFIED BY THE
23 MANUFACTURER AS THE LOADED WEIGHT OF THE VEHICLE; OR

24 (II) FOR A VEHICLE DESIGNED PRIMARILY TO PULL OTHER
25 VEHICLES AND NOT CONSTRUCTED TO CARRY A LOAD OTHER THAN PART OF THE
26 WEIGHT RATING, THE VALUE SPECIFIED BY THE MANUFACTURER AS THE LOADED
27 WEIGHT OF THE COMBINATION VEHICLE.

28 (3) "TRUCK" MEANS A MOTOR VEHICLE THAT:

29 (I) IS DESIGNED PRIMARILY TO TRANSPORT PROPERTY OR AS
30 SPECIAL PURPOSE EQUIPMENT; AND

31 (II) HAS A GROSS VEHICLE WEIGHT RATING, OR THE EQUIVALENT
32 OF A GROSS VEHICLE WEIGHT RATING, IN EXCESS OF 20,000 POUNDS.

33 (B) IN GENERAL.

34 DURING AN ENERGY EMERGENCY, THE ADMINISTRATION MAY USE THE STATE
35 SET-ASIDE PROGRAM TO MITIGATE THE HARDSHIP AND EMERGENCY SITUATION OF
36 A PERSON ONLY TO THE EXTENT THE PERSON IS ENGAGED IN:

1 (1) AGRICULTURAL PRODUCTION, WHICH IS ACTIVITIES FOR THE
2 COMMERCIAL PRODUCTION OF FOOD, INCLUDING FARMING, RANCHING, DAIRYING,
3 AND FISHING, AND RELATED SUPPORT SERVICES;

4 (2) CARGO FREIGHT AND MAIL HAULING BY TRUCKS AND MAIL
5 CARRIERS;

6 (3) OPERATION OF CONGREGATE CARE FACILITIES, WHICH ARE PUBLIC
7 OR PRIVATE BUILDINGS USED TO LODGE AND CARE FOR INDIVIDUALS WHOSE
8 PLACES OF LODGING ARE RENDERED UNINHABITABLE DUE TO THE ENERGY
9 EMERGENCY;

10 (4) EMERGENCY SERVICES, WHICH ARE LAW ENFORCEMENT, FIRE
11 FIGHTING, EMERGENCY ROAD SERVICES, AND EMERGENCY MEDICAL SERVICES;

12 (5) ENERGY PRODUCTION, WHICH IS THE PROCESSING, PRODUCTION,
13 AND DISTRIBUTION OF ENERGY RESOURCES INCLUDING:

14 (I) SOLAR ENERGY;

15 (II) FUEL PRODUCED FROM ORGANIC MATERIAL, INCLUDING
16 WOOD, WASTES, PETROLEUM, COAL, AND NATURAL GAS;

17 (III) GEOTHERMAL ENERGY;

18 (IV) NUCLEAR ENERGY; AND

19 (V) ELECTRICAL ENERGY, OTHER THAN ELECTRICAL ENERGY
20 PRODUCED USING PETROLEUM-BASED FUELS;

21 (6) PASSENGER TRANSPORTATION SERVICES, OR THE OPERATION OF
22 FACILITIES NECESSARY TO SUPPORT THE SERVICES, INCLUDING:

23 (I) PUBLICLY OR PRIVATELY OWNED AIR AND SURFACE
24 OPERATIONS FOR TRANSPORTING THE PUBLIC;

25 (II) BUS TRANSPORTATION OF PUPILS TO AND FROM SCHOOL
26 SPONSORED ACTIVITIES; AND

27 (III) VANPOOL OPERATIONS, AS DEFINED IN § 11-175.1 OF THE
28 TRANSPORTATION ARTICLE;

29 (7) RESIDENTIAL SPACE HEATING AND FOOD PREPARATION;

30 (8) SANITATION SERVICES, WHICH ARE THE COLLECTION AND
31 DISPOSAL OF SOLID WASTES BY PUBLIC OR PRIVATE ENTITIES AND THE
32 MAINTENANCE, OPERATION, AND REPAIR OF LIQUID PURIFICATION AND WASTE
33 FACILITIES;

1 (9) SOCIAL SERVICE AGENCY USE, WHICH IS THE USE BY PUBLIC OR
 2 PRIVATE NONPROFIT SOCIAL SERVICES AGENCIES THAT OPERATE PROGRAMS TO
 3 PROVIDE ESSENTIAL HEALTH AND WELFARE SERVICES;

4 (10) SPACE HEATING FOR MEDICAL AND NURSING BUILDINGS; AND

5 (11) TELECOMMUNICATION SERVICES, WHICH ARE THE EMERGENCY OR
 6 ESSENTIAL INSTALLATION, REPAIR, OPERATION, AND MAINTENANCE OF VOICE,
 7 DATA, TELEGRAPH, VIDEO, AND SIMILAR COMMUNICATION SERVICES TO THE
 8 PUBLIC BY A COMMUNICATIONS COMMON CARRIER.

9 (C) PRIORITIES AMONG ACTIVITIES.

10 IF STATE SET-ASIDE VOLUMES ARE NOT SUFFICIENT TO SATISFY ALL
 11 REQUESTS FOR ASSIGNMENTS, THE ADMINISTRATION MAY SET PRIORITIES FOR
 12 MAKING ASSIGNMENTS AMONG THE ACTIVITIES LISTED IN SUBSECTION (B) OF THIS
 13 SECTION.

14 REVISOR'S NOTE: This section is new language derived without substantive
 15 change from former Art. 41, §§ 10-803 and 10-801(b), (d), (f), (h), (i), (l),
 16 (m), (p), (q), and (r).

17 In subsection (a)(2)(ii) of this section, the reference to a vehicle designed to
 18 "pull" other vehicles is substituted for the former reference to vehicles
 19 designed for "draw[ing]" other vehicles for clarity.

20 In subsection (a)(3) of this section, the former reference to a motor vehicle
 21 "with a motive power" is deleted as implicit in the reference to a "motor"
 22 vehicle.

23 In subsection (b)(3) of this section, the reference to the "operation" of
 24 congregate care facilities is added for clarity and grammatical consistency
 25 within subsection (b) of this section. Similarly, in subsection (b)(6) of this
 26 section, the reference to the "operation" of facilities is added.

27 In subsection (b)(5)(iii) of this section, the reference to geothermal "energy"
 28 is added for clarity and grammatical consistency within subsection (b)(5) of
 29 this section.

30 Defined terms: "Administration" § 14-501

31 "Assignment" § 14-501

32 "Person" §§ 1-101 and 14-501

33 "State set-aside program" § 14-501

34 "State set-aside volume" § 14-501

35 14-505. REPORTS BY PRIME SUPPLIERS.

36 (A) REQUIRED.

1 IF DURING AN ENERGY EMERGENCY THE FEDERAL GOVERNMENT DOES NOT
2 PROVIDE FOR THE COLLECTION AND TIMELY TRANSMITTAL TO THE STATES OF FUEL
3 SUPPLY DATA, EACH PRIME SUPPLIER SHALL REPORT TO THE ADMINISTRATION
4 MONTHLY AS PROVIDED IN THIS SECTION.

5 (B) CONTENTS.

6 THE PRIME SUPPLIER SHALL REPORT INFORMATION THAT INCLUDES:

7 (1) THE TOTAL ACTUAL DELIVERIES INTO THE STATE DURING THE
8 PRECEDING MONTH BY STATE SET-ASIDE PRODUCT;

9 (2) THE ESTIMATED TOTAL SUPPLY AVAILABLE FOR DISTRIBUTION
10 INTO THE STATE FOR CONSUMPTION IN THE STATE DURING THE FOLLOWING
11 MONTH BY STATE SET-ASIDE PRODUCT BEFORE THE ADJUSTMENT UNDER THE
12 STATE SET-ASIDE PROGRAM; AND

13 (3) THE ESTIMATED STATE SET-ASIDE VOLUME FOR DISTRIBUTION IN
14 THE STATE DURING THE FOLLOWING MONTH BY STATE SET-ASIDE PRODUCT.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 41, § 10-804(b).

17 In the introductory language of subsection (b) of this section, the former
18 phrase "but not limited to" is deleted as unnecessary in light of Art. 1, § 30,
19 which provides that the term "including" is used "by way of illustration
20 and not by way of limitation".

21 In subsection (b)(2) of this section, the phrase "under the State set-aside
22 program" is substituted for the former phrase "for State set-aside" for
23 clarity.

24 Defined terms: "Administration" § 14-501

25 "Assignment" § 14-501

26 "Energy emergency" § 14-501

27 "Prime supplier" § 14-501

28 "State set-aside product" § 14-501

29 "State set-aside volume" § 14-501

30 14-506. ASSIGNMENTS.

31 (A) DESIGNATION OF REPRESENTATIVE BY PRIME SUPPLIER.

32 (1) EACH PRIME SUPPLIER SHALL DESIGNATE A REPRESENTATIVE WITH
33 FULL AUTHORITY TO ACT ON BEHALF OF THE PRIME SUPPLIER WITH RESPECT TO
34 ASSIGNMENTS AND APPLICATIONS FOR ASSIGNMENTS.

35 (2) TO THE MAXIMUM EXTENT FEASIBLE, THE ADMINISTRATION SHALL
36 CONSULT WITH THE REPRESENTATIVE OF A PRIME SUPPLIER BEFORE ISSUING AN

1 ASSIGNMENT THAT AFFECTS THE AMOUNT OF STATE SET-ASIDE PRODUCT TO BE
2 SUPPLIED BY THE PRIME SUPPLIER.

3 (B) APPLICATION FOR AND ISSUANCE OF ASSIGNMENT.

4 (1) DURING AN ENERGY EMERGENCY A PERSON ENGAGED IN AN
5 ACTIVITY SPECIFIED IN § 14-504 OF THIS SUBTITLE MAY REQUEST AN ASSIGNMENT
6 BY SUBMITTING AN APPLICATION ON THE FORM THAT THE ADMINISTRATION
7 PROVIDES.

8 (2) ON APPROVAL OF THE APPLICATION, THE ADMINISTRATION SHALL:

9 (I) ISSUE AN ASSIGNMENT TO THE APPLICANT; AND

10 (II) PROVIDE A COPY OF THE ASSIGNMENT TO THE DESIGNATED
11 REPRESENTATIVE OF THE PRIME SUPPLIER.

12 (3) AN ASSIGNMENT IS EFFECTIVE ON ISSUANCE AND CONSTITUTES AN
13 ENCUMBRANCE ON THE PRIME SUPPLIER'S STATE SET-ASIDE VOLUMES FOR THE
14 MONTH OF ISSUANCE REGARDLESS OF THE ACTUAL DATE OF DELIVERY OF THE
15 STATE SET-ASIDE PRODUCT TO THE APPLICANT.

16 (C) EXPIRATION; SUPPLIER'S DUTY.

17 (1) AN ASSIGNMENT EXPIRES AUTOMATICALLY UNLESS THE APPLICANT
18 PRESENTS IT TO A SUPPLIER WITHIN 10 DAYS AFTER ISSUANCE.

19 (2) ON PRESENTATION OF AN ASSIGNMENT, THE SUPPLIER SHALL
20 SUPPLY TO THE APPLICANT THE ASSIGNED AMOUNT OF THE STATE SET-ASIDE
21 PRODUCT.

22 (3) A DESIGNATED WHOLESALE PURCHASER-RESELLER OF A PRIME
23 SUPPLIER:

24 (I) SHALL HONOR ASSIGNMENTS ON PRESENTATION; AND

25 (II) MAY NOT DELAY DELIVERY WHILE CONFIRMING THE
26 ASSIGNMENT WITH THE PRIME SUPPLIER.

27 (D) REPLACING STATE SET-ASIDE PRODUCT.

28 (1) IF A SUPPLIER OTHER THAN A PRIME SUPPLIER SUPPLIES A STATE
29 SET-ASIDE PRODUCT IN ACCORDANCE WITH AN ASSIGNMENT, THE SUPPLIER SHALL
30 IN TURN RECEIVE FROM ITS SUPPLIER AN EQUIVALENT VOLUME OF THE STATE
31 SET-ASIDE PRODUCT.

32 (2) THE VOLUME OF A STATE SET-ASIDE PRODUCT RECEIVED BY A
33 SUPPLIER FROM ITS SUPPLIER UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY
34 NOT BE CONSIDERED PART OF THE ALLOCATION THAT WOULD OTHERWISE HAVE
35 BEEN SUPPLIED TO THE SUPPLIER DURING THE SAME PERIOD.

1 (E) SUPPLY TO WHOLESALE PURCHASER-RESELLER.

2 THE ADMINISTRATION MAY DIRECT THAT A WHOLESALE
3 PURCHASER-RESELLER BE SUPPLIED UNDER THE STATE SET-ASIDE PROGRAM SO
4 THAT THE WHOLESALE PURCHASER-RESELLER IS ABLE TO SUPPLY SPECIFIED
5 INDIVIDUAL CONSUMERS WHO WOULD OTHERWISE BE ELIGIBLE FOR AN
6 ASSIGNMENT UNDER THIS SUBTITLE.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 41, § 10-805.

9 In subsection (a)(2) of this section, the defined term "assignment" is
10 substituted for the former reference to "any authorizing document" for
11 clarity.

12 In subsection (b)(1) of this section, the former parenthetical phrase
13 "(relating to priority activities during an energy emergency)", which
14 described former § 10-803, is deleted as surplusage.

15 In subsection (b)(2)(ii) of this section, the former reference to the "prime
16 supplier assigned by the Administration to the applicant" is deleted as
17 implicit in the concept of an assignment.

18 In subsections (c)(2) and (d)(1) and (2) of this section, the reference to a
19 State set-aside product being "supplied" is substituted for the former
20 reference to a State set-aside product being "provided" for clarity and
21 consistency throughout this subtitle.

22 In subsection (c)(3) of this section, the reference to "the assignment" is
23 substituted for the former reference to "such action" for clarity.

24 In subsection (e) of this section, the defined term "State set-aside
25 program" is substituted for the former phrase "State set-aside" for clarity.

26 Defined terms: "Administration" § 14-501

27 "Assignment" § 14-501

28 "Energy emergency" § 14-501

29 "Person" §§ 1-101 and 14-501

30 "Prime supplier" § 14-501

31 "State set-aside product" § 14-501

32 "State set-aside program" § 14-501

33 "State set-aside volume" § 14-501

34 "Supplier" § 14-501

35 "Wholesale purchaser-reseller" § 14-501

36 14-507. APPEALS.

37 (A) RIGHT OF APPEAL TO DIRECTOR.

1 AN APPLICANT OR SUPPLIER MAY APPEAL TO THE DIRECTOR A DECISION BY
2 THE ADMINISTRATION ON AN APPLICATION FOR AN ASSIGNMENT.

3 (B) APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT.

4 AN APPEAL UNDER THIS SECTION:

5 (1) IS NOT SUBJECT TO THE ADMINISTRATIVE PROCEDURE ACT; AND

6 (2) SHALL BE RESOLVED INFORMALLY, EXPEDITIOUSLY, AND
7 INEXPENSIVELY.

8 (C) DECISION OF DIRECTOR FINAL.

9 THE DECISION OF THE DIRECTOR IS THE FINAL AGENCY DECISION FOR
10 PURPOSES OF JUDICIAL REVIEW.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 41, § 10-806.

13 Defined terms: "Administration" § 14-501

14 "Assignment" § 14-501

15 "Director" § 14-501

16 "Supplier" § 14-501

17 14-508. RELEASE OF PRIME SUPPLIER'S STATE SET-ASIDE VOLUME.

18 (A) IN GENERAL.

19 THE ADMINISTRATION MAY ALLOW THE RELEASE OF ALL OR PART OF A PRIME
20 SUPPLIER'S STATE SET-ASIDE VOLUME INTO THE PRIME SUPPLIER'S NORMAL
21 STATEWIDE DISTRIBUTION SYSTEM.

22 (B) RELEASE INTO DESIGNATED AREA DURING ENERGY EMERGENCY.

23 (1) DURING AN ENERGY EMERGENCY, THE GOVERNOR BY EXECUTIVE
24 ORDER MAY DESIGNATE CERTAIN GEOGRAPHIC AREAS IN THE STATE AS SUFFERING
25 FROM AN INTRASTATE SUPPLY IMBALANCE.

26 (2) AT ANY TIME DURING AN ENERGY EMERGENCY, THE
27 ADMINISTRATION BY WRITTEN ORDER MAY REQUIRE A PRIME SUPPLIER TO
28 RELEASE ALL OR PART OF ITS STATE SET-ASIDE VOLUME INTO AN AREA
29 DESIGNATED UNDER PARAGRAPH (1) OF THIS SUBSECTION THROUGH ITS NORMAL
30 DISTRIBUTION SYSTEM.

31 (3) AN ORDER ISSUED UNDER PARAGRAPH (2) OF THIS SUBSECTION:

32 (I) IS EFFECTIVE IMMEDIATELY ON RECEIPT BY THE DESIGNATED
33 REPRESENTATIVE OF THE PRIME SUPPLIER; AND

1 (II) CONSTITUTES AN ENCUMBRANCE ON THE PRIME SUPPLIER'S
2 STATE SET-ASIDE VOLUME FOR THE MONTH OF ISSUANCE REGARDLESS OF THE
3 ACTUAL DATE OF DELIVERY OF THE STATE SET-ASIDE PRODUCT.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 41, § 10-807.

6 In subsection (b)(2) of this section, the phrase "during an energy
7 emergency" is added for clarity.

8 Defined terms: "Administration" § 14-501

9 "Energy emergency" § 14-501

10 "Prime supplier" § 14-501

11 "State set-aside product" § 14-501

12 "State set-aside volume" § 14-501

13 14-509. ACCUMULATION OR DEFERRAL OF STATE SET-ASIDE VOLUMES.

14 THE STATE SET-ASIDE VOLUMES FOR A PARTICULAR MONTH:

15 (1) MAY NOT BE ACCUMULATED OR DEFERRED; AND

16 (2) SHALL BE MADE AVAILABLE FROM THE STOCKS OF PRIME
17 SUPPLIERS, DIRECTLY OR THROUGH THEIR WHOLESALE PURCHASER-RESELLERS.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 41, § 10-808.

20 Defined terms: "Prime supplier" § 14-501

21 "State set-aside volume" § 14-501

22 "Wholesale purchaser-reseller" § 14-501

23 14-510. REPORT.

24 (A) REQUIRED.

25 WITHIN 120 DAYS AFTER THE END OF A FISCAL YEAR WHEN THE
26 ADMINISTRATION USES THE STATE SET-ASIDE PROGRAM, THE ADMINISTRATION
27 SHALL REPORT TO THE GENERAL ASSEMBLY, SUBJECT TO § 2-1246 OF THE STATE
28 GOVERNMENT ARTICLE, ON THE USE OF THE STATE SET-ASIDE PROGRAM.

29 (B) CONTENTS.

30 THE REPORT REQUIRED UNDER THIS SECTION SHALL INCLUDE A DESCRIPTION
31 OF THE NUMBER AND TYPES OF APPLICATIONS FOR EACH STATE SET-ASIDE
32 PRODUCT RECEIVED AND APPROVED BY THE ADMINISTRATION DURING THAT
33 FISCAL YEAR.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 41, § 10-809.

1 Defined terms: "Administration" § 14-501

2 "State set-aside product" § 14-501

3 "State set-aside program" § 14-501

4 14-511. PROHIBITED ACTS; PENALTIES.

5 (A) VIOLATION OF SUBTITLE PROHIBITED; PENALTY.

6 (1) A PERSON MAY NOT KNOWINGLY VIOLATE THIS SUBTITLE OR A RULE
7 OR REGULATION ADOPTED UNDER IT.

8 (2) AN OFFICER, DIRECTOR, OR EMPLOYEE OF A CORPORATION OR
9 OTHER ENTITY ORGANIZED FOR A COMMON BUSINESS PURPOSE MAY NOT
10 KNOWINGLY PARTICIPATE IN A VIOLATION OF THIS SUBTITLE OR A RULE OR
11 REGULATION ADOPTED UNDER IT.

12 (3) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
13 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
14 EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

15 (B) REFUSAL TO SUPPLY STATE SET-ASIDE PRODUCT; CIVIL PENALTY.

16 A SUPPLIER WHO REFUSES TO SUPPLY A STATE SET-ASIDE PRODUCT AS
17 REQUIRED BY AN ASSIGNMENT UNDER THIS SUBTITLE:

18 (1) IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$10,000; AND

19 (2) MAY BE ENJOINED FROM CONTINUING THE VIOLATION.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 41, § 10-810.

22 In subsection (b)(1) of this section, the reference to a "civil" penalty is
23 substituted for the former reference to the penalty being recoverable "in a
24 civil action" for brevity.

25 Defined terms: "Assignment" § 14-501

26 "Person" § 14-501

27 "State set-aside product" § 14-501

28 "Supplier" § 14-501

29 GENERAL REVISOR'S NOTE TO SUBTITLE:

30 Former Art. 41, § 10-811, which provides that this subtitle shall remain
31 effective only until July 1, 2005, is transferred to the Session Laws. Generally, when
32 a subtitle is of limited duration, the termination provision for the subtitle is not
33 codified.

1 SUBTITLE 6. INTERSTATE EMERGENCY MANAGEMENT AND CIVIL DEFENSE
2 COMPACT.

3 14-601. PREAMBLE.

4 WHEREAS, the Congress of the United States of America has enacted the
5 procedure for granting its consent to emergency management and civil defense
6 compacts by an act entitled "Federal Civil Defense Act of 1950" (Public Law 920, 81st
7 Congress, Second Session, approved January 12, 1951); and

8 WHEREAS, the State of Maryland contemplates entering into emergency
9 management and civil defense compacts with other states, possessions and territories
10 of the United States and with the District of Columbia, substantially in the form
11 following:

12 REVISOR'S NOTE: This section formerly was Art. 41, § 17-101.

13 No changes are made.

14 14-602. INTERSTATE EMERGENCY MANAGEMENT AND CIVIL DEFENSE COMPACT.

15 INTERSTATE EMERGENCY MANAGEMENT AND CIVIL DEFENSE COMPACT

16 The contracting states solemnly agree:

17 (1) ARTICLE 1. PURPOSE.

18 The purpose of this compact is to provide mutual aid among the states in
19 meeting any emergency from enemy attack or other cause (natural or otherwise)
20 including sabotage and subversive acts and direct attacks by bombs, shellfire, and
21 atomic, radiological, chemical, bacteriological means, and other weapons. The prompt,
22 full and effective utilization of the resources of the respective states, including such
23 resources as may be available from the United States government or any other
24 source, are essential to the safety, care and welfare of the people thereof in the event
25 of enemy action or other emergency, and any other resources, including personnel,
26 equipment or supplies, shall be incorporated into a plan or plans of mutual aid to be
27 developed among emergency management and civil defense agencies or similar bodies
28 of the states that are parties hereto. The directors of emergency management and
29 civil defense of all party states shall constitute a committee to formulate plans and
30 take all necessary steps for the implementation of this compact.

31 (2) ARTICLE 2. EMERGENCY MANAGEMENT AND CIVIL DEFENSE PLANS
32 AND PROGRAMS.

33 It shall be the duty of each party state to formulate emergency management and
34 civil defense plans and programs for application within such state. There shall be
35 frequent consultation between the representatives of the states and with the United
36 States government and the free exchange of information and plans, including
37 inventories of any materials and equipment available for emergency management
38 and civil defense. In carrying out such emergency management and civil defense

1 plans and programs the party states shall so far as possible provide and follow
2 uniform standards, practices and rules and regulations including:

3 (a) Insignia, arm bands and any other distinctive articles to designate
4 and distinguish the different emergency management and civil defense services;

5 (b) Blackouts and practice blackouts, air raid drills, mobilization of
6 emergency management and civil defense forces and other tests and exercises;

7 (c) Warnings and signals for drills or attacks and the mechanical
8 devices to be used in connection therewith;

9 (d) The effective screening or extinguishing of all lights and lighting
10 devices and appliances;

11 (e) Shutting off water mains, gas mains, electric power connections and
12 the suspension of all other utility services;

13 (f) All materials or equipment used or to be used for emergency
14 management and civil defense purposes in order to assure that such materials and
15 equipment will be easily and freely interchangeable when used in or by any other
16 party state;

17 (g) The conduct of civilians and the movement and cessation of
18 movement of pedestrians and vehicular traffic, prior, during and subsequent to drills
19 or attacks;

20 (h) The safety of public meetings or gatherings; and

21 (i) Mobile support units.

22 (3) ARTICLE 3. RESOURCES; EMERGENCY MANAGEMENT AND CIVIL
23 DEFENSE FORCES.

24 Any party state requested to render mutual aid shall take such action as is
25 necessary to provide and make available the resources covered by this compact in
26 accordance with the terms hereof; provided that it is understood that the state
27 rendering aid may withhold resources to the extent necessary to provide reasonable
28 protection for such state. Each party state shall extend to the emergency
29 management and civil defense forces of any other party state, while operating within
30 its state limits under the terms and conditions of this compact, the same powers
31 (except that of arrest unless specifically authorized by the receiving state), duties,
32 rights, privileges and immunities as are extended to the emergency management and
33 civil defense forces of such state. Emergency management and civil defense forces will
34 continue under the command and control of their regular leaders but the
35 organizational units will come under the operational control of the emergency
36 management and civil defense authorities of the state receiving assistance.

37 (4) ARTICLE 4. LICENSES AND PERMITS.

1 Whenever any person holds a license, certificate or other permit issued by any
2 state evidencing the meeting of qualifications for professional, mechanical or other
3 skills, such person may render aid involving such skill in any party state to meet an
4 emergency or disaster and such state shall give due recognition to such license,
5 certificate or other permit as if issued in the state in which aid is rendered.

6 (5) ARTICLE 5. LIABILITY.

7 No party state or its officers or employees rendering aid in another state
8 pursuant to this compact shall be liable on account of any act or omission in good faith
9 on the part of such forces while so engaged, or on account of the maintenance or use
10 of any equipment or supplies in connection therewith.

11 (6) ARTICLE 6. SUPPLEMENTARY AGREEMENTS.

12 Inasmuch as it is probable that the pattern and detail of the machinery for
13 mutual aid among two or more states may differ from that appropriate among other
14 states party hereto, this instrument contains elements of a broad base common to all
15 states, and nothing herein contained shall preclude any state from entering into
16 supplementary agreements with another state or states. Such supplementary
17 agreements may comprehend, but shall not be limited to, provisions for evacuation
18 and reception of injured and other persons, and the exchange of medical, fire, police,
19 public utility, reconnaissance, welfare, transportation and communications personnel,
20 equipment and supplies.

21 (7) ARTICLE 7. COMPENSATION AND DEATH BENEFITS.

22 Each party state shall provide for the payment of compensation and death
23 benefits to injured members of the emergency management and civil defense forces of
24 that state and the representatives of deceased members of such forces in case such
25 members sustain injuries or are killed while rendering aid pursuant to this compact,
26 in the same manner and on the same terms as if the injury or death were sustained
27 within such state.

28 (8) ARTICLE 8. REIMBURSEMENT FOR LOSS, DAMAGE, EXPENSE, OR COST.

29 Any party state rendering aid in another state pursuant to this compact shall be
30 reimbursed by the party state receiving such aid for any loss or damage to, or expense
31 incurred in the operation of any equipment answering a request for aid, and for the
32 cost incurred in connection with such requests; provided, that any aiding party state
33 may assume in whole or in part such loss, damage, expense, or other cost, or may loan
34 such equipment or donate such services to the receiving party state without charge or
35 cost; and provided further that any two or more party states may enter into
36 supplementary agreements establishing a different allocation of costs as among those
37 states. The United States government may relieve the party state receiving aid from
38 any liability and reimburse the party state supplying emergency management and
39 civil defense forces for the compensation paid to and the transportation, subsistence
40 and maintenance expenses of such forces during the time of the rendition of such aid
41 or assistance outside the state and may also pay fair and reasonable compensation for

1 the use or utilization of the supplies, materials, equipment or facilities so utilized or
2 consumed.

3 (9) ARTICLE 9. PLANS FOR EVACUATION OF CIVIL POPULATION.

4 Plans for the orderly evacuation and reception of the civilian population as the
5 result of an emergency shall be worked out from time to time between representatives
6 of the party states and the various local emergency management and civil defense
7 areas thereof. Such plans shall include the manner of transporting such evacuees, the
8 number of evacuees to be received in different areas, the manner in which food,
9 clothing, housing, and medical care will be provided, the registration of the evacuees,
10 the providing of facilities for the notification of relatives or friends and the forwarding
11 of such evacuees to other areas or the bringing in of additional materials, supplies,
12 and all other relevant factors. Such plans shall provide that the party state receiving
13 evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in
14 receiving and caring for such evacuees, for expenditures for transportation, food,
15 clothing, medicines and medical care and like items. Such expenditures shall be
16 reimbursed by the party state of which the evacuees are residents, or by the United
17 States government under plans approved by it. After the termination of the
18 emergency the party state of which the evacuees are residents shall assume the
19 responsibility for the ultimate support or repatriation of such evacuees.

20 (10) ARTICLE 10. AVAILABILITY OF COMPACT; "STATE" DEFINED.

21 This compact shall be available to any state, possession or territory of the
22 United States, and the District of Columbia. The term "state" may also include any
23 neighboring foreign country or province or state thereof.

24 (11) ARTICLE 11. ROLE OF FEDERAL EMERGENCY MANAGEMENT AGENCY.

25 The committee established pursuant to Article 1 of this compact may request the
26 Federal Emergency Management Agency of the United States government to act as
27 an informational and coordinating body under this compact, and representatives of
28 such agency of the United States government may attend meetings of such
29 committee.

30 (12) ARTICLE 12. COMPACT OPERATIVE ON RATIFICATION.

31 This compact shall become operative immediately upon its ratification by any
32 state as between it and any other state or states so ratifying and shall be subject to
33 approval by Congress unless prior congressional approval has been given. Duly
34 authenticated copies of this compact and of such supplementary agreements as may
35 be entered into shall, at the time of their approval, be deposited with each of the party
36 states and with the Federal Emergency Management Agency and other appropriate
37 agencies of the United States government.

38 (13) ARTICLE 13. WITHDRAWAL FROM COMPACT.

39 This compact shall continue in force and remain binding on each party state
40 until the legislature or the governor of such party state takes action to withdraw

1 therefrom. Such action shall not be effective until 30 days after notice thereof has
2 been sent by the governor of the party state desiring to withdraw to the governors of
3 all other party states.

4 (14) ARTICLE 14. CONSTRUCTION OF COMPACT; SEVERABILITY.

5 This compact shall be construed to effectuate the purposes stated in Article 1
6 hereof. If any provision of this compact is declared unconstitutional, or the
7 applicability thereof to any person or circumstance is held invalid, the
8 constitutionality of the remainder of this compact and the applicability thereof to
9 other persons and circumstances shall not be affected thereby.

10 (15) ARTICLE 15. ADDITIONAL APPLICABILITY.

11 (a) This article shall be in effect only as among those states which have
12 enacted it into law or in which the governors have adopted it pursuant to
13 constitutional or statutory authority sufficient to give it the force of law as part of this
14 compact. Nothing contained in this article or in any supplementary agreement made
15 in implementation thereof shall be construed to abridge, impair or supersede any
16 other provision of this compact or any obligation undertaken by a state pursuant
17 thereto, except that if its terms so provide, a supplementary agreement in
18 implementation of this article may modify, expand or add to any such obligation as
19 among the parties to the supplementary agreement.

20 (b) In addition to the occurrences, circumstances and subject matters to
21 which preceding articles of this compact make it applicable, this compact and the
22 authorizations, entitlements and procedures thereof shall apply to:

23 (1) Searches for and rescue of persons who are lost, marooned, or
24 otherwise in danger;

25 (2) Action useful in coping with disasters arising from any cause
26 or designed to increase capability to cope with any such disasters;

27 (3) Incidents, or the imminence thereof, which endanger the
28 health or safety of the public and which require the use of special equipment, trained
29 personnel or personnel in larger numbers than are locally available in order to reduce,
30 counteract or remove the danger;

31 (4) The giving and receiving of aid by subdivisions of party states;

32 (5) Exercises, drills or other training or practice activities
33 designed to aid personnel to prepare for, cope with, or prevent any disaster or other
34 emergency to which this compact applies.

35 (c) Except as expressly limited by this compact or a supplementary
36 agreement in force pursuant thereto, any aid authorized by this compact or any
37 supplementary agreement may be furnished by any agency of a party state, a
38 subdivision of a party state, or by a joint agency of any two or more party states or of
39 their subdivisions. Any joint agency providing aid shall be entitled to reimbursement

1 therefor to the same extent and in the same manner as a state. The personnel of a
2 joint agency, when rendering aid pursuant to this compact, shall have the same
3 rights, authority and immunity as personnel of party states.

4 (d) Nothing in this article shall be construed to exclude from the
5 coverage of Articles 1-14 of this compact any matter which, in the absence of this
6 article, could reasonably be construed to be covered thereby.

7 REVISOR'S NOTE: This section formerly was Art. 41, § 17-102.

8 No changes are made.

9 14-603. AUTHORITY OF GOVERNOR TO ENTER INTO AND EXECUTE COMPACT;
10 ALTERATIONS; RATIFICATION.

11 The Governor is hereby authorized and empowered to enter into and execute, on
12 behalf of the State of Maryland, such emergency management and civil defense
13 compacts with other states, possessions or territories of the United States or with the
14 District of Columbia, substantially in the form hereinbefore set forth, provided that
15 the Board of Public Works, with the concurrence of the Director of the Maryland
16 Emergency Management Agency, may approve alterations of the terms, provisions
17 and conditions of the aforesaid proposed emergency management and civil defense
18 compact so long as said alterations are in substantial compliance with the terms,
19 provisions and conditions hereinbefore set forth and when the Governor, in the
20 exercise of the power as aforesaid, enters into and executes an emergency
21 management and civil defense compact on behalf of the State of Maryland, said
22 compact is hereby approved and ratified and every paragraph, clause, provision,
23 matter and thing in the said compact contained shall be obligatory on this State and
24 the citizens thereof, and shall be forever faithfully and inviolably observed, and kept
25 by the government of this State and all of its citizens according to the true intent and
26 meaning of the said compact.

27 REVISOR'S NOTE: This section formerly was Art. 41, § 17-103.

28 No changes are made.

29 14-604. SECRETARY OF STATE TO TRANSMIT COPIES OF COMPACTS.

30 The Secretary of State is authorized and directed to prepare and transmit duly
31 authenticated copies of such compacts and of this act to the governor of each state
32 entering into such compact, the President of the United States, the President of the
33 United States Senate, the Speaker of the United States House of Representatives, the
34 Federal Emergency Management Agency Director, the Secretary of State of the
35 United States, and the Council of State Governments.

36 REVISOR'S NOTE: This section formerly was Art. 41, § 17-104.

37 No changes are made.

1 14-605. SEVERABILITY.

2 If any clause, sentence, paragraph, or section of this subtitle shall, for any
3 reason, be adjudged by any court of competent jurisdiction to be unconstitutional and
4 invalid, such judgment shall not affect, impair or invalidate the remainder thereof,
5 but shall be confined in its operation to the clause, sentence, paragraph, or section
6 thereof so found unconstitutional and invalid.

7 REVISOR'S NOTE: This section formerly was Art. 41, § 17-105.

8 No changes are made.

9 GENERAL REVISOR'S NOTE TO SUBTITLE:

10 In revising the various articles of the Annotated Code, it was the usual practice
11 of the former Commission to Revise the Annotated Code and article review
12 committees to make very few, if any, changes to compacts. The Public Safety Article
13 Review Committee has made no changes to the text of the Interstate Emergency
14 Management and Civil Defense Compact, which comprises § 14-602 of this subtitle.
15 To conform to current code revision drafting conventions, catchlines have been added
16 to sections and subsections of sections of this subtitle. These catchlines, however, are
17 not law and the addition of catchlines to this subtitle does not affect the substance of
18 the Compact.

19 SUBTITLE 7. EMERGENCY MANAGEMENT ASSISTANCE COMPACT.

20 14-701. PARTICIPATION WITH OTHER JURISDICTIONS.

21 The Emergency Management Assistance Compact is entered into with all other
22 jurisdictions which adopt the Compact in a form substantially as the Compact
23 appears in [§ 19-102] § 14-702 of this [title] SUBTITLE.

24 REVISOR'S NOTE: This section formerly was Art. 41, § 19-101.

25 The reference to "§ 14-702 of this subtitle" is substituted for the former
26 reference to "§ 19-102 of this title" to reflect the reorganization of this
27 revised subtitle.

28 No other changes are made.

29 14-702. EMERGENCY MANAGEMENT ASSISTANCE COMPACT.

30 EMERGENCY MANAGEMENT ASSISTANCE COMPACT

31 (1) Article I. Purpose and Authorities.

32 This compact is made and entered into by and between the participating
33 member states which enact this compact, hereinafter called party states. For the
34 purposes of this compact, the term "states" is taken to mean the several states, the

1 Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial
2 possessions.

3 The purpose of this compact is to provide for mutual assistance between the
4 states entering into this compact in managing any emergency or disaster that is duly
5 declared by the Governor of the affected state(s), whether arising from natural
6 disaster, technological hazard, man-made disaster, civil emergency aspects of
7 resources shortages, community disorders, insurgency, or enemy attack.

8 This compact shall also provide for mutual cooperation in emergency-related
9 exercises, testing, or other training activities using equipment and personnel
10 simulating performance of any aspect of the giving and receiving of aid by party
11 states or subdivisions of party states during emergencies, such actions occurring
12 outside actual declared emergency periods. Mutual assistance in this compact may
13 include the use of the states' National Guard forces, either in accordance with the
14 National Guard Mutual Assistance Compact or by mutual agreement between states.

15 (2) Article II. General Implementation.

16 Each party state entering into this compact recognizes that many emergencies
17 transcend political jurisdictional boundaries and that intergovernmental coordination
18 is essential in managing these and other emergencies under this compact. Each state
19 further recognizes that there will be emergencies which require immediate access and
20 present procedures to apply outside resources to make a prompt and effective
21 response to such an emergency. This is because few, if any, individual states have all
22 the resources they may need in all types of emergencies or the capability of delivering
23 resources to areas where emergencies exist.

24 The prompt, full, and effective utilization of resources of the participating states,
25 including any resources on hand or available from the federal government or any
26 other source, that are essential to the safety, care, and welfare of the people in the
27 event of any emergency or disaster declared by a party state, shall be the underlying
28 principle on which all articles of this compact shall be understood.

29 On behalf of the Governor of each state participating in the compact, the legally
30 designated state official who is assigned responsibility for emergency management
31 will be responsible for formulation of the appropriate interstate mutual aid plans and
32 procedures necessary to implement this compact.

33 (3) Article III. Party State Responsibilities.

34 (a) It shall be the responsibility of each party state to formulate
35 procedural plans and programs for interstate cooperation in the performance of the
36 responsibilities listed in this article. In formulating such plans, and in carrying them
37 out, the party states, insofar as practical, shall:

38 (1) Review individual state hazards analyses and, to the extent
39 reasonably possible, determine all those potential emergencies the party states might
40 jointly suffer, whether due to natural disaster, technological hazard, man-made

1 disaster, emergency aspects of resources shortages, civil disorders, insurgency, or
2 enemy attack.

3 (2) Review party states' individual emergency plans and develop a
4 plan which will determine the mechanism for the interstate management and
5 provision of assistance concerning any potential emergency.

6 (3) Develop interstate procedures to fill any identified gaps and to
7 resolve any identified inconsistencies or overlaps in existing or developed plans.

8 (4) Assist in warning communities adjacent to or crossing the
9 state boundaries.

10 (5) Protect and assure uninterrupted delivery of services,
11 medicines, water, food, energy and fuel, search and rescue, and critical lifeline
12 equipment, services, and resources, both human and material.

13 (6) Inventory and set procedures for the interstate loan and
14 delivery of human and material resources, together with procedures for
15 reimbursement or forgiveness.

16 (7) Provide, to the extent authorized by law, for temporary
17 suspension of any statutes or ordinances that restrict the implementation of the
18 above responsibilities.

19 (b) The authorized representative of a party state may request
20 assistance of another party state by contacting the authorized representative of that
21 state. The provisions of this compact shall apply only to requests for assistance made
22 by and to authorized representatives. Requests may be verbal or in writing. If verbal,
23 the request shall be confirmed in writing within 30 days of the verbal request.
24 Requests shall provide the following information:

25 (1) A description of the emergency service function for which
26 assistance is needed, including, but not limited to, fire services, law enforcement,
27 emergency medical, transportation, communications, public works and engineering,
28 building inspection, planning and information assistance, mass care, resource
29 support, health and medical services, and search and rescue.

30 (2) The amount and type of personnel, equipment, materials and
31 supplies needed, and a reasonable estimate of the length of time they will be needed.

32 (3) The specific place and time for staging of the assisting party's
33 response and a point of contact at that location.

34 (c) There shall be frequent consultation between state officials who
35 have assigned emergency management responsibilities and other appropriate
36 representatives of the party states with affected jurisdictions and the United States
37 Government, with free exchange of information, plans, and resource records relating
38 to emergency capabilities.

1 (4) Article IV. Limitations.

2 Any party state requested to render mutual aid or conduct exercises and
3 training for mutual aid shall take such action as is necessary to provide and make
4 available the resources covered by this compact in accordance with the terms hereof;
5 provided that it is understood that the state rendering aid may withhold resources to
6 the extent necessary to provide reasonable protection for such state.

7 Each party state shall afford to the emergency forces of any party state, while
8 operating within its state limits under the terms and conditions of this compact, the
9 same powers, except that of arrest unless specifically authorized by the receiving
10 state, duties, rights, and privileges as are afforded forces of the state in which they
11 are performing emergency services. Emergency forces will continue under the
12 command and control of their regular leaders, but the organizational units will come
13 under the operational control of the emergency services authorities of the state
14 receiving assistance. These conditions may be activated, as needed, only subsequent
15 to a declaration of a state of emergency or disaster by the governor of the party state
16 that is to receive assistance or upon commencement of exercises or training for
17 mutual aid and shall continue so long as the exercises or training for mutual aid are
18 in progress, the state of emergency or disaster remains in effect, or loaned resources
19 remain in the receiving state(s), whichever is longer.

20 (5) Article V. Licenses and Permits.

21 Whenever any person holds a license, certificate, or other permit issued by any
22 state party to the compact evidencing the meeting of qualifications for professional,
23 mechanical, or other skills, and when such assistance is requested by the receiving
24 party state, such person shall be deemed licensed, certified, or permitted by the state
25 requesting assistance to render aid involving such skill to meet a declared emergency
26 or disaster, subject to such limitations and conditions as the Governor of the
27 requesting state may prescribe by executive order or otherwise.

28 (6) Article VI. Liability.

29 Officers or employees of a party state rendering aid in another state pursuant to
30 this compact shall be considered agents of the requesting state for tort liability and
31 immunity purposes. No party state or its officers or employees rendering aid in
32 another state pursuant to this compact shall be liable on account of any act or
33 omission in good faith on the part of such forces while so engaged or on account of the
34 maintenance or use of any equipment or supplies in connection therewith. Good faith
35 in this article shall not include willful misconduct, gross negligence, or recklessness.

36 (7) Article VII. Supplementary Agreements.

37 Inasmuch as it is probable that the pattern and detail of the machinery for
38 mutual aid among two or more states may differ from that among the states that are
39 party hereto, this compact contains elements of a broad base common to all states,
40 and nothing herein contained shall preclude any state from entering into
41 supplementary agreements with another state or affect any other agreements already
42 in force between states. Supplementary agreements may comprehend, but shall not

1 be limited to, provisions for evacuation and reception of injured and other persons and
2 the exchange of medical, fire, police, public utility, reconnaissance, welfare,
3 transportation and communications personnel, and equipment and supplies.

4 (8) Article VIII. Compensation.

5 Each party state shall provide for the payment of compensation and death
6 benefits to injured members of the emergency forces of that state and representatives
7 of deceased members of such forces in case such members sustain injuries or are
8 killed while rendering aid pursuant to this compact, in the same manner and on the
9 same terms as if the injury or death were sustained within their own state.

10 (9) Article IX. Reimbursement.

11 Any party state rendering aid in another state pursuant to this compact shall be
12 reimbursed by the party state receiving such aid for any loss or damage to or expense
13 incurred in the operation of any equipment and the provision of any service in
14 answering a request for aid and for the costs incurred in connection with such
15 requests; provided, that any aiding party state may assume in whole or in part such
16 loss, damage, expense, or other cost, or may loan such equipment or donate such
17 services to the receiving party state without charge or cost; and provided further, that
18 any two or more party states may enter into supplementary agreements establishing
19 a different allocation of costs among those states. Article VIII expenses shall not be
20 reimbursable under this article.

21 (10) Article X. Evacuation.

22 Plans for the orderly evacuation and interstate reception of portions of the
23 civilian population as the result of any emergency or disaster of sufficient proportions
24 to so warrant, shall be worked out and maintained between the party states and the
25 emergency management/services directors of the various jurisdictions where any type
26 of incident requiring evacuations might occur. Such plans shall be put into effect by
27 request of the state from which evacuees come and shall include the manner of
28 transporting such evacuees, the number of evacuees to be received in different areas,
29 the manner in which food, clothing, housing, and medical care will be provided, the
30 registration of evacuees, the providing of facilities for the notification of relatives or
31 friends, and the forwarding of such evacuees to other areas or the bringing in of
32 additional materials, supplies, and all other relevant factors. Such plans shall provide
33 that the party state receiving evacuees and the party state from which the evacuees
34 come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in
35 receiving and caring for such evacuees, for expenditures for transportation, food,
36 clothing, medicines and medical care, and like items. Such expenditures shall be
37 reimbursed as agreed by the party state from which the evacuees come. After the
38 termination of the emergency or disaster, the party state from which the evacuees
39 come shall assume the responsibility for the ultimate support of repatriation of such
40 evacuees.

41 (11) Article XI. Implementation.

1 (a) This compact shall become effective immediately upon its
2 enactment into law by any two states. Thereafter, this compact shall become effective
3 as to any other state upon its enactment by such state.

4 (b) Any party state may withdraw from this compact by enacting a
5 statute repealing the same, but no such withdrawal shall take effect until 30 days
6 after the Governor of the withdrawing state has given notice in writing of such
7 withdrawal to the Governors of all other party states. Such action shall not relieve the
8 withdrawing state from obligations assumed hereunder prior to the effective date of
9 withdrawal.

10 (c) Duly authenticated copies of this compact and of such
11 supplementary agreements as may be entered into shall, at the time of their approval,
12 be deposited with each of the party states and with the Federal Emergency
13 Management Agency and other appropriate agencies of the United States
14 Government.

15 (12) Article XII. Validity.

16 This compact shall be construed to effectuate the purposes stated in Article I
17 hereof. If any provision of this compact is declared unconstitutional, or the
18 applicability thereof to any person or circumstances is held invalid, the
19 constitutionality of the remainder of this compact and the applicability thereof to
20 other persons and circumstances shall not be affected thereby.

21 (13) Article XIII. Additional Provisions.

22 Nothing in this compact shall authorize or permit the use of military force by the
23 National Guard of a state at any place outside that state in any emergency for which
24 the President is authorized by law to call into federal service the militia, or for any
25 purpose for which the use of the Army or the Air Force would in the absence of express
26 statutory authorization be prohibited under Section 1385 of Title 18 of the United
27 States Code.

28 REVISOR'S NOTE: This section formerly was Art. 41, § 19-102.

29 No changes are made.

30 GENERAL REVISOR'S NOTE TO SUBTITLE:

31 In revising the various articles of the Annotated Code, it was the usual practice
32 of the former Commission to Revise the Annotated Code and article review
33 committees to make very few, if any, changes to compacts. The Public Safety Article
34 Review Committee has made no changes to the text of the Emergency Management
35 Assistance Compact, which comprises § 14-702 of this subtitle. To conform to current
36 code revision drafting conventions, catchlines have been added to sections and
37 subsections of sections of this subtitle. These catchlines, however, are not law and the
38 addition of catchlines to this subtitle does not affect the substance of the Compact.

1 SUBTITLE 8. MARYLAND EMERGENCY MANAGEMENT ASSISTANCE COMPACT.

2 14-801. DEFINITIONS.

3 (a) IN GENERAL.

4 In this subtitle the following words have the meanings indicated.

5 REVISOR'S NOTE: This subsection formerly was Art. 16A, § 37(a).

6 No changes are made.

7 (b) AUTHORIZED REPRESENTATIVE.

8 "Authorized representative" means an employee of a local jurisdiction
9 authorized by the senior elected official of that jurisdiction to request, offer, or provide
10 assistance under the terms of the compact.

11 REVISOR'S NOTE: This subsection formerly was Art. 16A, § 37(b).

12 No changes are made.

13 Defined terms: "Compact" § 14-801

14 "Senior elected official" § 14-801

15 (c) COMPACT.

16 "Compact" means the Maryland Emergency Management Assistance Compact.

17 REVISOR'S NOTE: This subsection formerly was Art. 16A, § 37(c).

18 No changes are made.

19 (d) JURISDICTIONS.

20 "Jurisdictions" means the 23 counties within Maryland, Baltimore City, and
21 Ocean City.

22 REVISOR'S NOTE: This subsection formerly was Art. 16A, § 37(d).

23 No changes are made.

24 Defined term: "County" § 1-101

25 (e) SENIOR ELECTED OFFICIAL.

26 "Senior elected official" means:

27 (1) The Mayor;

28 (2) The County Executive; or

1 (3) For a county that does not have a county executive, the president of
2 the board of county commissioners or county council or other chief executive officer of
3 the county.

4 REVISOR'S NOTE: This subsection formerly was Art. 16A, § 37(e).

5 No changes are made.

6 Defined term: "County" § 1-101

7 14-802. PARTICIPATION WITH OTHER JURISDICTIONS.

8 The Maryland Emergency Management Assistance Compact is entered into with
9 all other jurisdictions that adopt the Compact in a form substantially similar to the
10 Compact set forth in this subtitle.

11 REVISOR'S NOTE: This section formerly was Art. 16A, § 38.

12 No changes are made.

13 Defined terms: "Compact" § 14-801

14 "Jurisdictions" § 14-801

15 14-803. MARYLAND EMERGENCY MANAGEMENT ASSISTANCE COMPACT.

16 (1) Article 1. Purpose.

17 (a) (1) The purpose of this Compact is to provide for mutual assistance
18 between the jurisdictions entering into this Compact in managing an emergency.

19 (2) This Compact also shall provide for mutual cooperation in
20 emergency-related exercises, testing, or other training activities using equipment or
21 personnel simulating performance of any aspect of the giving and receiving of aid by
22 party jurisdictions during emergencies.

23 (2) Article 2. Requests for Assistance.

24 (b) (1) The senior elected official of each jurisdiction shall designate an
25 authorized representative. The authorized representative of a party jurisdiction may
26 request assistance of another party jurisdiction by contacting the authorized
27 representative of that jurisdiction.

28 (2) The provisions of this Compact shall apply only to requests for
29 assistance made by and to authorized representatives.

30 (3) Requests may be verbal or in writing.

31 (4) If verbal, the request shall be confirmed in writing at the
32 earliest possible date, but no later than 10 calendar days following the verbal request.

33 (5) Written requests shall provide the following information:

- 1 (i) A description of the emergency support function for
2 which assistance is needed;
- 3 (ii) The emergency support function shall include, but not be
4 limited to, fire services, law enforcement, emergency medical services, transportation,
5 communications, public works and engineering, building inspection, planning and
6 information assistance, mass care, resource support, health and medical services, and
7 search and rescue;
- 8 (iii) The amount and type of personnel, equipment, materials,
9 and supplies needed and a reasonable estimate of the length of time they will be
10 needed; and
- 11 (iv) The specific place and time for staging of the assisting
12 party's response and a point of contact at that location.
- 13 (6) There shall be frequent consultations between the Maryland
14 Emergency Management agency and appropriate representatives of the party
15 jurisdictions with free exchange of information and plans generally relating to
16 emergency capabilities.
- 17 (7) A senior elected official or an authorized representative will
18 advise the Maryland Emergency Management Agency of verbal requests and provide
19 copies of written requests.
- 20 (3) Article 3. Limitations.
- 21 (c) (1) Any jurisdiction which is a party to this Compact and which
22 receives a request for assistance shall take such actions as are necessary to provide
23 requested resources.
- 24 (2) Any jurisdiction may withhold resources to the extent
25 necessary to provide reasonable protection to its own jurisdiction.
- 26 (3) Each party jurisdiction shall afford to the emergency
27 responders of any party jurisdiction operating within the requesting jurisdiction
28 under the terms and conditions of this Compact, the same powers, duties, rights, and
29 privileges as are afforded those of the jurisdiction in which they are performing
30 emergency services.
- 31 (4) Emergency responders will continue under the command and
32 control of their regular leaders, but the organizational units will come under the
33 operational control of the emergency services authorities of the requesting
34 jurisdiction.
- 35 (5) Emergency responders shall have the same powers, duties,
36 rights, and privileges as personnel of the requesting jurisdiction correspondent to
37 performing the same function.
- 38 (6) (i) The provisions of this article shall only take effect:

1 (f) (1) Each party jurisdiction shall provide for the payment of workers'
2 compensation and death benefits to injured members of the emergency responders of
3 its own jurisdiction.

4 (2) The requesting jurisdiction will reimburse the responding
5 jurisdiction for all reasonable and necessary expenses incurred by the responding
6 jurisdiction provided that any responding jurisdiction may:

7 (i) Assume in whole or in part such loss, damage, expense,
8 or other cost;

9 (ii) Loan equipment or donate services to the requesting
10 jurisdiction without charge or cost; and

11 (iii) Agree to any allocation of expenses between the
12 responding and requesting jurisdiction.

13 (3) Any two or more jurisdictions may enter into supplemental
14 agreements establishing a different allocation of costs among those jurisdictions.

15 (4) Records of expenses incurred in sufficient detail to satisfy
16 auditing requirements shall be submitted by the responding jurisdiction as soon as
17 possible following the termination of the assistance provided.

18 (7) Article 7. Implementation.

19 (g) (1) Party jurisdictions are encouraged to consult frequently with
20 each other and with the Maryland Emergency Management Agency and to exchange
21 information and plans relating to emergency management.

22 (2) This Compact shall become effective immediately upon its
23 enactment into law by local jurisdictions.

24 (3) Any party jurisdiction may withdraw from this Compact by
25 enacting a repeal of the same but no such withdrawal shall take effect until 30 days
26 after the senior elected official of the withdrawing jurisdiction has given notice in
27 writing of such withdrawal to the senior elected officials of all party jurisdictions.

28 (4) Withdrawal from the Compact shall not relieve the
29 withdrawing jurisdiction from obligations assumed under Article 4 or Article 6 of this
30 Compact prior to the effective date of withdrawal.

31 (5) Authenticated copies of this Compact and of such
32 supplementary agreements as may be entered into shall at the time of their approval
33 be retained by each party jurisdiction and with the Maryland Emergency
34 Management Agency.

35 (8) Article 8. Validity.

1 (h) (1) This Compact shall be construed to effectuate the purposes
2 stated in Article 1 hereof.

3 (2) If any part or provision of this Compact or the application
4 thereof to any person or circumstance is held invalid for any reason in a court of
5 competent jurisdiction, the invalidity does not affect other provisions or any other
6 application of this Compact which can be given effect without the invalid provision or
7 application, and for this purpose the provisions of this Compact are declared
8 severable.

9 REVISOR'S NOTE: This section formerly was Art. 16A, § 39.

10 No changes are made.

11 Defined terms: "Authorized representative" § 14-801

12 "Compact" § 14-801

13 "Jurisdictions" § 14-801

14 "Senior elected official" § 14-801

15 GENERAL REVISOR'S NOTE TO SUBTITLE:

16 In revising the various articles of the Annotated Code, it was the usual practice
17 of the former Commission to Revise the Annotated Code and article review
18 committees to make very few, if any, changes to compacts. The Public Safety Article
19 Review Committee has made no changes to the text of the Maryland Emergency
20 Management Assistance Compact, which comprises § 14-803 of this subtitle. To
21 conform to current code revision drafting conventions, catchlines have been added to
22 sections and subsections of sections of this subtitle. These catchlines, however, are not
23 law and the addition of catchlines to this subtitle does not affect the substance of the
24 Compact.

25 SUBTITLE 9. COMPULSORY WORK DURING STATE OF WAR.

26 14-901. SCOPE OF SUBTITLE.

27 THIS SUBTITLE DOES NOT APPLY TO:

28 (1) STUDENTS;

29 (2) INDIVIDUALS WHO ARE PREPARING THEMSELVES TO ENGAGE IN
30 TRADE OR INDUSTRIAL PURSUITS;

31 (3) INDIVIDUALS WHO ARE TEMPORARILY UNEMPLOYED BECAUSE OF
32 DIFFERENCES WITH THEIR EMPLOYERS; AND

33 (4) INDIVIDUALS WHO ARE ENGAGED OR EMPLOYED IN A SEASONAL
34 BUSINESS, TRADE, OR OCCUPATION IN BALTIMORE CITY OR ALLEGANY COUNTY.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 89, §§ 8, 9, and the second sentence of § 4.

1 %In this section and throughout this subtitle, references to "individuals" are
2 substituted for the former references to "persons" because only an
3 individual, and not the other entities included in the defined term
4 "person", can be employed. *See* § 1-101 of this article for the definition of
5 "persons".

6 In item (2) of this section, the reference to individuals who are "preparing"
7 themselves to engage in a trade is substituted for the former archaic
8 reference to "fitting" themselves to engage in a trade for clarity.

9 In item (4) of this section, the former reference to an occupation "carried
10 on" in Baltimore City or Allegany County is deleted as surplusage.

11 14-902. APPOINTMENT OR EMPLOYMENT OF ASSISTANTS.

12 TO CARRY OUT THIS SUBTITLE, THE GOVERNOR MAY APPOINT OR EMPLOY
13 ASSISTANTS AND USE ANY AVAILABLE AND APPROPRIATE AGENCIES.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 89, § 7.

16 The former reference to employing assistants "as may be necessary" is
17 deleted as surplusage.

18 The former reference to the use of assistants and agencies "to aid" the
19 Governor in carrying out this subtitle is deleted as implicit in the general
20 authority of the Governor to appoint assistants to "carry out this subtitle".

21 14-903. REGISTRATION FOR WORK.

22 (A) IN GENERAL.

23 (1) THE GOVERNOR BY PROCLAMATION MAY REQUIRE THAT EACH
24 ABLE-BODIED INDIVIDUAL IN THE STATE BETWEEN 18 AND 50 YEARS OLD,
25 INCLUSIVE, WHO IS NOT REGULARLY OR CONTINUOUSLY EMPLOYED OR ENGAGED
26 IN A LAWFUL AND USEFUL BUSINESS, OCCUPATION, TRADE, OR PROFESSION
27 IMMEDIATELY REGISTER FOR WORK UNDER THIS SUBTITLE.

28 (2) THE GOVERNOR MAY REQUIRE REGISTRATION FOR WORK UNDER
29 PARAGRAPH (1) OF THIS SUBSECTION IF THE GOVERNOR DETERMINES THAT
30 BECAUSE OF A STATE OF WAR:

31 (I) IT IS NECESSARY FOR THE PROTECTION AND WELFARE OF THE
32 PEOPLE OF THE STATE THAT THOSE INDIVIDUALS WORK IN AGRICULTURAL,
33 INDUSTRIAL, OR OTHER OCCUPATIONS CARRIED ON BY THE STATE, A COUNTY, OR A
34 PRIVATE EMPLOYER;

35 (II) THE OCCUPATIONS SPECIFIED IN ITEM (I) OF THIS PARAGRAPH
36 ARE ESSENTIAL FOR THE PROTECTION AND WELFARE OF THE PEOPLE OF THE STATE
37 AND THE UNITED STATES; AND

1 (III) THE OCCUPATIONS SPECIFIED IN ITEM (I) OF THIS PARAGRAPH
2 CANNOT BE CARRIED ON AS REQUIRED FOR THE PROTECTION AND WELFARE OF THE
3 PEOPLE OF THIS STATE AND THE UNITED STATES WITHOUT RESORT TO THIS
4 SUBTITLE.

5 (B) SELF-SUPPORTING INDIVIDUALS AND INDIVIDUALS SUPPORTED BY
6 OTHERS.

7 INDIVIDUALS WHO ARE SELF-SUPPORTING BECAUSE OF INCOME OR
8 OWNERSHIP OF PROPERTY AND INDIVIDUALS WHO ARE SUPPORTED BY OTHERS
9 SHALL BE REQUIRED TO REGISTER UNDER THIS SUBTITLE.

10 (C) REGISTRATION REQUIREMENTS.

11 (1) EACH INDIVIDUAL REQUIRED TO REGISTER UNDER THIS SECTION
12 SHALL REGISTER WITH THE CLERK OF THE CIRCUIT COURT OF THE COUNTY IN
13 WHICH THE INDIVIDUAL RESIDES.

14 (2) THE INDIVIDUAL SHALL PROVIDE TO THE CLERK THE INDIVIDUAL'S
15 NAME, ADDRESS, AGE, AND ANY OTHER INFORMATION THAT THE GOVERNOR
16 REQUIRES.

17 (D) DUTY OF CIRCUIT COURT CLERK.

18 ON REQUEST OF THE GOVERNOR, THE CLERK OF THE CIRCUIT COURT SHALL
19 PROVIDE THE GOVERNOR WITH THE INFORMATION OBTAINED UNDER SUBSECTION
20 (C)(2) OF THIS SECTION.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from the first and second sentences of former Art. 89, § 3 and the
23 first sentence of § 4.

24 In subsection (a)(1) of this section, the reference to an individual
25 "immediately" registering for work is substituted for the former archaic
26 reference to an individual registering for work "forthwith" for clarity.

27 Also in subsection (a)(1) of this section, the former reference to an
28 individual who is not "then or thereafter" regularly employed is deleted as
29 implicit in the reference to an individual who is "not
30 regularly ... employed".

31 Also in subsection (a)(1) of this section, the former reference to a business,
32 trade, profession, or occupation "of any kind" is deleted as surplusage.

33 In the introductory language of subsection (a)(2) of this section, the former
34 references to the Governor "find[ing]" that certain circumstances exist are
35 deleted in light of the reference to the Governor "determin[ing]" that
36 certain circumstances exist.

37 In subsection (a)(2)(i) of this section, the former reference to "the City of

1 Baltimore" is deleted in light of the definition of "county" in § 1-101 of this
2 article.

3 Also in subsection (a)(2)(i) of this section, the former phrase "or any of their
4 agencies" is deleted as surplusage.

5 Also in subsection (a)(2)(i) of this section, the former reference to private
6 "firms or corporations" is deleted as unnecessary in light of the definition
7 of "person" in § 1-101 of this article.

8 In subsection (a)(2)(ii) of this section, the former reference to occupations
9 "whether carried on by the State, the counties, the City of Baltimore, or by
10 private employers" is deleted as redundant of the language in subsection
11 (a)(1) of this section.

12 In subsection (c)(1) of this section, the reference to the county in which the
13 individual "resides" is substituted for the former reference to the county in
14 which the individual "may be" for clarity.

15 In subsection (c)(2) of this section, the reference to an individual
16 "provid[ing]" information to the clerk is added for clarity.

17 In subsection (d) of this section, the reference to the "information obtained
18 under subsection (c)(2) of this section" is substituted for the former
19 reference to "lists of the names, addresses, age and such other information
20 aforesaid as may have been obtained and registered" for brevity.

21 Also in subsection (d) of this section, the former requirement that the clerk
22 provide certain information to the Governor "from time to time" is deleted
23 as surplusage.

24 Defined terms: "County" § 1-101

25 "Person" § 1-101

26 14-904. ASSIGNMENT TO WORK.

27 (A) IN GENERAL.

28 THE GOVERNOR SHALL ASSIGN OR CAUSE TO BE ASSIGNED AND, IF NECESSARY,
29 REASSIGN OR CAUSE TO BE REASSIGNED, FOR A PERIOD NOT EXCEEDING 6
30 CONTINUOUS MONTHS FOR EACH INDIVIDUAL AT ONE TIME, INDIVIDUALS WHO
31 HAVE REGISTERED UNDER § 14-903 OF THIS SUBTITLE TO THE OCCUPATIONS
32 DESCRIBED IN § 14-903(A) OF THIS SUBTITLE IF THE EMPLOYERS ACCEPT THE
33 SERVICES OF THESE INDIVIDUALS.

34 (B) QUALIFICATIONS FOR ASSIGNMENT.

35 EACH INDIVIDUAL ASSIGNED TO WORK UNDER SUBSECTION (A) OF THIS
36 SECTION SHALL BE PHYSICALLY ABLE TO PERFORM THE WORK TO WHICH THE
37 INDIVIDUAL IS ASSIGNED.

1 (C) DURATION AND NATURE OF WORK.

2 (1) IN DETERMINING THE DURATION AND NATURE OF THE WORK TO
3 WHICH AN INDIVIDUAL IS ASSIGNED, THE GOVERNOR SHALL CONSIDER THE AGE,
4 PHYSICAL CONDITION, AND ANY OTHER APPROPRIATE CIRCUMSTANCES OF THE
5 INDIVIDUAL.

6 (2) AN INDIVIDUAL MAY NOT BE REQUIRED TO WORK UNDER THIS
7 SUBTITLE A GREATER NUMBER OF HOURS PER DAY THAN LAWFULLY CONSTITUTES
8 A DAY'S WORK IN THE OCCUPATION TO WHICH THE INDIVIDUAL IS ASSIGNED.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from the third, fourth, and sixth sentences of former Art. 89, § 3
11 and the seventh sentence of § 6.

12 In subsection (a) of this section, the reference to individuals "who have
13 registered under § 14-903 of this subtitle" is substituted for the former
14 reference to "such" individuals for clarity.

15 Also in subsection (a) of this section, the reference to occupations
16 "described in § 14-903(a) of this subtitle" is substituted for the former
17 reference to occupations "as aforesaid, carried on by the State, the counties
18 or the City of Baltimore, or to private employers engaged in occupations of
19 the character above mentioned" for clarity and brevity.

20 Also in subsection (a) of this section, the former reference to the Governor
21 "thereupon" assigning an individual to an occupation is deleted as implicit
22 in the condition precedent that an individual first have "registered under §
23 14-903 of this subtitle" before the Governor may assign the individual to
24 an occupation.

25 In subsection (b) of this section, the reference to an individual assigned "to
26 work under subsection (a) of this section" is substituted for the former
27 reference to an individual "so" assigned for clarity.

28 Also in subsection (b) of this section, the former reference to a person being
29 physically able "in every case" to perform the work is deleted as implicit.

30 In subsection (c)(1) of this section, the reference to "determining" the
31 duration of the work is substituted for the former reference to "fixing" the
32 duration for clarity.

33 Also in subsection (c)(1) of this section, the reference to the "duration" of
34 work is substituted for the former reference to the "period" of work for
35 clarity.

36 Also in subsection (c)(1) of this section, the former reference to an
37 individual "so assigned" is deleted as surplusage.

38 In subsection (c)(2) of this section, the reference to the occupation "to which

1 the individual is assigned" is substituted for the former reference to the
2 occupation "in which such person is required to engage" for clarity.

3 14-905. RULES AND REGULATIONS OF GOVERNOR.

4 AS SOON AS THE GOVERNOR ISSUES A PROCLAMATION UNDER § 14-903 OF THIS
5 SUBTITLE, THE GOVERNOR SHALL PREPARE AND PUBLISH RULES AND
6 REGULATIONS TO GOVERN THE ASSIGNMENT OF INDIVIDUALS TO WORK UNDER
7 THIS SUBTITLE THAT:

8 (1) ENSURE THAT ALL INDIVIDUALS SIMILARLY SITUATED SHALL BE
9 TREATED ALIKE TO THE EXTENT POSSIBLE; AND

10 (2) MAKE ALLOWANCES FOR THE AGE, PHYSICAL CONDITION, AND
11 OTHER APPROPRIATE CIRCUMSTANCES OF INDIVIDUALS ASSIGNED TO WORK UNDER
12 THIS SUBTITLE.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from the fifth and seventh sentences of former Art. 89, § 3.

15 In the introductory language of this section, the reference to a
16 proclamation issued "under § 14-903 of this subtitle" is substituted for the
17 former reference to a proclamation issued "as herein provided" for clarity.

18 In item (2) of this section, the reference to allowances "for the age, physical
19 condition, and other appropriate circumstances of individuals assigned to
20 work under this subtitle" is substituted for the former reference to
21 allowances "for such facts and circumstances" for clarity.

22 14-906. COMPENSATION.

23 (A) AMOUNT.

24 EACH INDIVIDUAL REQUIRED TO WORK UNDER THIS SUBTITLE IS ENTITLED TO
25 COMPENSATION NOT LESS THAN THE COMPENSATION PAID TO OTHERS FOR THE
26 SAME WORK.

27 (B) INDIVIDUAL ASSIGNED TO WORK -- FOR STATE.

28 IF AN INDIVIDUAL IS ASSIGNED TO WORK FOR A UNIT OF THE STATE, THE
29 COMPENSATION OF THE INDIVIDUAL SHALL BE PAID BY THE UNIT OUT OF THE
30 APPROPRIATION MADE TO IT BY THE STATE.

31 (C) SAME -- FOR COUNTY.

32 IF AN INDIVIDUAL IS ASSIGNED TO WORK FOR A COUNTY, THE COMPENSATION
33 OF THE INDIVIDUAL SHALL BE PAID BY THE COUNTY.

34 (D) SAME -- FOR PRIVATE EMPLOYER.

1 (1) IF AN INDIVIDUAL IS ASSIGNED TO WORK FOR A PRIVATE EMPLOYER,
 2 THE COMPENSATION OF THE INDIVIDUAL SHALL BE PAID BY THE PRIVATE
 3 EMPLOYER.

4 (2) EACH PRIVATE EMPLOYER SHALL EXECUTE A BOND TO THE STATE
 5 IN THE PENALTY AND WITH THE SURETY THAT THE GOVERNOR APPROVES,
 6 CONDITIONED TO GUARANTEE THE PAYMENT OF COMPENSATION DUE TO
 7 INDIVIDUALS ASSIGNED TO WORK FOR THE PRIVATE EMPLOYER.

8 (3) (I) IF A PRIVATE EMPLOYER FAILS TO PAY THE COMPENSATION
 9 DUE TO AN INDIVIDUAL UNDER THIS SUBSECTION, THE COMPENSATION SHALL BE
 10 PAID BY THE STATE.

11 (II) IF MONEY IS APPROPRIATED FOR THE PURPOSE SPECIFIED IN
 12 SUBPARAGRAPH (I) OF THIS PARAGRAPH:

13 1. PAYMENT SHALL BE MADE ON THE ORDER OF THE
 14 EXECUTIVE COMMITTEE OF THE MARYLAND COUNCIL OF DEFENSE WITH THE
 15 APPROVAL OF THE GOVERNOR;

16 2. THE ORDER SHALL BE DIRECTED TO THE COMPTROLLER;
 17 AND

18 3. THE COMPTROLLER SHALL DRAW A WARRANT ON THE
 19 TREASURER FOR THE AMOUNT OF PAYMENT AS PROVIDED BY LAW.

20 (4) IF THE STATE COMPENSATES AN INDIVIDUAL UNDER THIS
 21 SUBSECTION, THE EMPLOYER'S BOND SHALL BE IN DEFAULT AND SHALL BE PUT
 22 INTO SUIT BY THE STATE.

23 REVISOR'S NOTE: This section is new language derived without substantive
 24 change from the first through the sixth sentences of former Art. 89, § 6.

25 In subsections (b), (c), and (d)(1) of this section, the former references to
 26 "such person" are deleted as implicit in the references to an individual
 27 "assigned to work".

28 In subsection (b) of this section, the reference to "unit" is substituted for
 29 the former reference to "department, board or commission". The term
 30 "unit" is used as the general term for an entity in the State government
 31 because it is inclusive enough to include all those entities. *See* General
 32 Revisor's Note to article.

33 In subsection (c) of this section, the former references to "the City of
 34 Baltimore" are deleted in light of the definition of "county" in § 1-101 of
 35 this article.

36 In subsection (d)(1) of this section, the former reference to a private
 37 employer "accepting his services" is deleted as redundant in light of the
 38 requirement in § 14-904 of this subtitle that a private employer accept the

1 services of an individual before the individual may be assigned to work for
2 the employer.

3 In subsection (d)(3)(i) of this section, the former phrase "out of any moneys
4 in the treasury available therefor and not otherwise appropriated, or out of
5 any moneys appropriated therefor" is deleted as surplusage.

6 In subsection (d)(3)(ii) of this section, the phrase "[i]f money is
7 appropriated for the purpose specified in subparagraph (i) of this
8 paragraph" is substituted for the former phrase "in the latter event" for
9 clarity.

10 In subsection (d)(4) of this section, the phrase "[i]f the State compensates
11 an individual under this section" is substituted for the former phrase "[i]n
12 the event of such payment by the State" for clarity.

13 Also in subsection (d)(4) of this section, the former reference to the "said"
14 bond of the employer is deleted as surplusage.

15 The Public Safety Article Review Committee notes, for consideration by the
16 General Assembly, that the Maryland Council of Defense no longer exists.
17 According to the *Maryland Manual 1917-1918*, the Council of Defense was
18 appointed in 1917 by the Governor under an Act of the extra session of the
19 legislature held in June 1917. The Council appeared to have been designed
20 to assist in the State's efforts to mobilize during World War I. The last
21 reference to the Council was in the 1919-1920 *Maryland Manual*. It
22 appeared that the Executive Committee of the Council had authority over
23 expenditures "under the Act of the Extraordinary Session authorizing a
24 State Debt not exceeding one million dollars `for defense of the State in the
25 present war". Whenever the Executive Committee was given authority
26 with respect to the disbursement of moneys appropriated by the State, the
27 Comptroller of the Treasury and the State Treasurer formed part of the
28 Executive Committee.

29 Defined term: "County" § 1-101

30 14-907. FAILURE TO REGISTER FOR WORK.

31 (A) PROHIBITED ACT.

32 AN INDIVIDUAL MAY NOT FAIL TO REGISTER UNDER THIS SUBTITLE.

33 (B) PENALTY.

34 AN INDIVIDUAL WHO VIOLATES SUBSECTION (A) OF THIS SECTION IS GUILTY OF
35 A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$50.

36 (C) DUTY OF LAW ENFORCEMENT OFFICERS.

1 AFTER THE GOVERNOR ISSUES A PROCLAMATION UNDER THIS SUBTITLE, THE
2 COUNTY SHERIFFS, THE POLICE DEPARTMENT OF BALTIMORE CITY, AND ANY OTHER
3 OFFICER OF THE STATE, A COUNTY, OR MUNICIPAL CORPORATION CHARGED WITH
4 ENFORCING THE LAW SHALL:

5 (1) SEEK DILIGENTLY THE NAMES AND ADDRESSES OF ABLE-BODIED
6 INDIVIDUALS WITHIN THEIR RESPECTIVE JURISDICTIONS WHO ARE BETWEEN 18
7 AND 50 YEARS OLD, INCLUSIVE, AND NOT REGULARLY OR CONTINUOUSLY
8 EMPLOYED OR ENGAGED IN A LAWFUL AND USEFUL OCCUPATION AND WHO HAVE
9 FAILED TO REGISTER UNDER THIS SUBTITLE; AND

10 (2) OBTAIN CRIMINAL SUMMONSES OR WARRANTS FROM A DISTRICT
11 COURT COMMISSIONER FOR THE ARREST OF INDIVIDUALS DESCRIBED IN ITEM (1) OF
12 THIS SUBSECTION.

13 (D) DUTY OF DISTRICT COURT.

14 THE DISTRICT COURT SHALL SEND THE NAME OF EACH INDIVIDUAL
15 CONVICTED OF FAILING TO REGISTER AND THE INFORMATION SPECIFIED IN
16 SUBSECTION (C)(1) OF THIS SECTION TO THE CLERK OF THE CIRCUIT COURT OF THE
17 COUNTY IN WHICH THE INDIVIDUAL RESIDES.

18 (E) DUTY OF CIRCUIT COURT CLERKS.

19 THE CIRCUIT COURT CLERKS SHALL REGISTER EACH INDIVIDUAL CONVICTED
20 OF FAILING TO REGISTER UNDER THIS SUBTITLE AND REPORT THE REGISTRATION
21 TO THE GOVERNOR IN ACCORDANCE WITH § 14-903 OF THIS SUBTITLE.

22 (F) ASSIGNMENT TO WORK BY GOVERNOR.

23 THE GOVERNOR SHALL ASSIGN EACH INDIVIDUAL REGISTERED UNDER
24 SUBSECTION (E) OF THIS SECTION TO WORK AS PROVIDED IN § 14-904 OF THIS
25 SUBTITLE.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 89, § 5.

28 Subsection (a) of this section is revised in standard language used to state
29 a prohibition. Similarly, subsection (b) of this section is revised in standard
30 language used to state a penalty.

31 In the introductory language of subsection (c) of this section, the reference
32 to the issuance of a proclamation "under this subtitle" is substituted for the
33 former archaic reference to the issuance of a proclamation "hereinbefore
34 provided for" for clarity.

35 In subsection (c)(1) of this section, the reference to "addresses" is
36 substituted for the former reference to "places of residence" for clarity.

37 Also in subsection (c)(1) of this section, the former phrase "and to continue

1 to seek" is deleted as surplusage.

2 Also in subsection (c)(1) of this section, the reference to individuals who are
3 between "18 and 50 years old" is substituted for the former reference to
4 persons between "the ages aforesaid" for clarity. Similarly, the reference to
5 individuals who have failed to register "under this subtitle" is substituted
6 for the former reference to persons who have failed to register "as
7 aforesaid".

8 Also in subsection (c)(1) of this section, the reference to individuals not
9 regularly employed "or engaged in a lawful and useful occupation" is
10 substituted for the former reference to a person not regularly employed "as
11 aforesaid" for clarity and for consistency with § 14-903(a) of this subtitle.

12 In subsection (d) of this section, the reference to the information "specified
13 in subsection (c)(1) of this section" is substituted for the former reference to
14 information "as aforesaid" for clarity.

15 In subsection (e) of this section, the reference to registering each individual
16 convicted of failing to register and reporting the registration to the
17 Governor "in accordance with § 14-903 of this subtitle" is substituted for
18 the former references to registering a person "as aforesaid" and reporting
19 the registration to the Governor "as hereinbefore provided" for clarity.

20 In subsection (f) of this section, the reference to an individual "registered
21 under subsection (e) of this section" is substituted for the former reference
22 to "such" person for clarity.

23 Also in subsection (f) of this section, the reference to an assignment to work
24 "as provided in § 14-904 of this subtitle" is substituted for the former
25 reference to an assignment to work "as provided in § 3" for specificity.
26 Although former Art. 89, § 3 is revised as §§ 14-903, 14-904, 14-905, and
27 14-908 of this subtitle, only § 14-904 of this subtitle pertains to
28 registration for work.

29 Defined terms: "County" § 1-101

30 "Person" § 1-101

31 14-908. FAILURE TO WORK.

32 (A) PROHIBITED.

33 AN INDIVIDUAL MAY NOT FAIL TO DO THE WORK ASSIGNED TO THE INDIVIDUAL
34 UNLESS THE INDIVIDUAL BECOMES REGULARLY OR CONTINUOUSLY EMPLOYED IN A
35 BUSINESS, OCCUPATION, PROFESSION, OR TRADE.

36 (B) PENALTY.

1 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
2 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A
3 FINE NOT EXCEEDING \$500 OR BOTH.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from the eighth sentence of former Art. 89, § 3.

6 Subsection (a) of this section is revised in standard language used to state
7 a prohibition. Similarly, subsection (b) of this section is revised in standard
8 language used to state a penalty.

9 In subsection (a) of this section, the former reference to "failing or refusing
10 to do or to continue to do" the work assigned is deleted as included in the
11 reference to "fail[ing]" to do the work assigned.

12 Also in subsection (a) of this section, the phrase "unless the individual
13 becomes" regularly employed is substituted for the former reference to a
14 person "who, in the meanwhile ha[ving] not" become regularly employed
15 for clarity and consistency within this subtitle.

16 In subsection (b) of this section, the reference to being "guilty of a
17 misdemeanor" is added to state expressly that which was only implied in
18 the former law. In this State, any crime that was not a felony at common
19 law and has not been declared a felony by statute, is considered to be a
20 misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v.*
21 *State*, 136 Md. 342 (1920); *Williams v. State*, 4 Md. App. 342, 347 (1968);
22 and *Dutton v. State*, 123 Md. 373, 378 (1914).

23 Also in subsection (b) of this section, the former reference to the penalty
24 being "in the discretion of the court" is deleted as implicit in the reference
25 to a person being "subject to" a certain penalty.

26 Defined term: "Person" § 1-101

27 SUBTITLE 10. RIOTS.

28 14-1001. LIABILITY OF COUNTY OR MUNICIPAL CORPORATION FOR DAMAGES.

29 (A) "STRUCTURE" DEFINED.

30 IN THIS SECTION, "STRUCTURE" MEANS:

31 (1) A CHURCH, CHAPEL, OR CONVENT;

32 (2) A DWELLING;

33 (3) A BUILDING USED OR DESIGNED AS A PLACE TO TRANSACT
34 BUSINESS OR STORE PROPERTY;

35 (4) A BARN, STABLE, OR OTHER OUTBUILDING; OR

1 (5) A SHIP, SHIPYARD, OR LUMBERYARD.

2 (B) CAUSE OF ACTION AUTHORIZED.

3 SUBJECT TO § 14-1002 OF THIS SUBTITLE, IF A STRUCTURE OR PERSONAL
4 PROPERTY IS STOLEN, DAMAGED, OR DESTROYED IN A RIOT, THE INJURED PARTY
5 MAY RECOVER ACTUAL DAMAGES SUSTAINED IN A CIVIL ACTION AGAINST THE
6 COUNTY OR MUNICIPAL CORPORATION OF THE STATE IN WHICH THE RIOT
7 OCCURRED.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 82, § 1.

10 Subsection (a) of this section is revised as a definition of "structure" to
11 avoid repetition of the items included within this definition in the
12 substantive provisions of this section.

13 The Public Safety Article Review Committee notes, for consideration by the
14 General Assembly, that under former Art. 82, § 1 - revised as the definition
15 of "structure" in subsection (a) of this section - an injured party could
16 recover only for damage sustained to those buildings, etc., specifically
17 listed in the former law. It seems unlikely that the General Assembly
18 intended, for example, to provide compensation for damage to a church or
19 convent, but not for damage to a rectory. The General Assembly may wish
20 to expand the definition of "structure" to cover other types of buildings.

21 In subsection (a)(2) of this section, the former reference to a dwelling
22 "house" is deleted as implicit in the word "dwelling".

23 In subsection (a)(3) of this section, the reference to a "building" used or
24 designed for certain purposes is substituted for the former reference to a
25 "house" for accuracy.

26 Also in subsection (a)(3) of this section, the reference to a place to "store"
27 property is substituted for the former reference to a place to "deposit"
28 property for clarity and accuracy.

29 Also in subsection (a)(3) of this section, the former reference to a building
30 used or designed "by any person or any body corporate" is deleted as
31 surplusage.

32 In subsection (a)(4) of this section, the reference to an "outbuilding" is
33 substituted for the former reference to an "outhouse" to use the term in a
34 more general sense. This conforms to a similar change made in the
35 Criminal Law Article. *See* CR § 6-101(b).

36 In subsection (b) of this section, the introductory language "[s]ubject to §
37 14-1002 of this subtitle" is added to reflect that certain limitations exist on
38 the cause of action authorized under subsection (b) of this section.

- 1 % Also in subsection (b) of this section, the references to a structure or
2 property being "damaged" are substituted for the former references to a
3 structure or property being "injured" for accuracy.
- 4 Also in subsection (b) of this section, the reference to property being
5 "stolen" is substituted for the former reference to property being "taken
6 away" for clarity.
- 7 Also in subsection (b) of this section, the phrase "in a riot" is substituted for
8 the former phrase "by any riotous or tumultuous assemblage of people" for
9 brevity and consistency within subsection (b) of this section.
- 10 Also in subsection (b) of this section, the reference to the "injured party" is
11 substituted for the former reference to the "sufferer" for clarity and
12 consistency with language used in other revised articles of the Code.
13 Correspondingly, the former reference to "sufferers" is deleted in light of
14 Art. 1, § 8, which provides that the singular generally includes the plural.
- 15 Also in subsection (b) of this section, the reference to the "actual damages
16 sustained" is substituted for the former reference to the "full amount of the
17 damage so done" for clarity and brevity.
- 18 Also in subsection (b) of this section, the reference to a "civil action" is
19 substituted for the former reference to a "suit at law" to reflect the merger
20 of law and equity effected by Md. Rule 2-301, which mandates "one form of
21 action known as `civil action'".
- 22 Also in subsection (b) of this section, the reference to a "municipal
23 corporation" is substituted for the former reference to an "incorporated
24 town or city" to conform to Md. Constitution, Art. XI-E.
- 25 Also in subsection (b) of this section, the former reference to certain
26 structures or personal property "in any county or incorporated town or city
27 of this State" being damaged or destroyed by a riotous or tumultuous
28 assembly of people is deleted as unnecessary in light of the reference to
29 bringing a civil action against the "county or municipal corporation of the
30 State in which" the riot occurred. Similarly, the former reference to
31 property "therein" is deleted.
- 32 Also in subsection (b) of this section, the former reference to "any articles
33 of" personal property is deleted as surplusage.
- 34 Also in subsection (b) of this section, the former reference to a "tumult" is
35 deleted as unnecessary in light of the reference to a "riot".

36 Defined term: "County" § 1-101

37 14-1002. CONDITIONS OF LIABILITY.

38 (A) NOTICE AND ABILITY TO PREVENT DAMAGE.

1 A COUNTY OR MUNICIPAL CORPORATION IS NOT LIABLE UNDER § 14-1001 OF
2 THIS SUBTITLE FOR THEFT, DAMAGE, OR DESTRUCTION THAT OCCURS IN A RIOT
3 UNLESS THE AUTHORITIES OF THE COUNTY OR MUNICIPAL CORPORATION:

4 (1) HAD GOOD REASON TO BELIEVE THAT THE RIOT WAS ABOUT TO
5 TAKE PLACE OR, HAVING TAKEN PLACE, HAD NOTICE OF THE RIOT IN TIME TO
6 PREVENT THE THEFT, DAMAGE, OR DESTRUCTION; AND

7 (2) HAD THE ABILITY, EITHER BY USE OF THE COUNTY'S OR MUNICIPAL
8 CORPORATION'S POLICE OR WITH THE AID OF THE RESIDENTS OF THE COUNTY OR
9 MUNICIPAL CORPORATION, TO PREVENT THE THEFT, DAMAGE, OR DESTRUCTION.

10 (B) USE OF REASONABLE DILIGENCE.

11 A PERSON MAY NOT RECOVER DAMAGES FROM A COUNTY OR MUNICIPAL
12 CORPORATION UNDER § 14-1001 OF THIS SUBTITLE IF IT IS SATISFACTORILY PROVED
13 THAT THE AUTHORITIES OF THE COUNTY OR MUNICIPAL CORPORATION, AND THE
14 RESIDENTS OF THE COUNTY OR MUNICIPAL CORPORATION WHEN CALLED ON BY
15 THE AUTHORITIES, USED REASONABLE DILIGENCE AND ALL THE POWERS
16 ENTRUSTED TO THEM TO PREVENT OR SUPPRESS THE RIOT.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 82, § 3 and, except as it related to a limitations
19 period for actions, § 2.

20 In the introductory language of subsection (a) of this section, the reference
21 to a "municipal corporation" is substituted for the former reference to an
22 "incorporated town or city" to conform to Md. Constitution, Art. XI-E.
23 Correspondingly, in subsections (a)(2) and (b) of this section, the references
24 to a "municipal corporation" are substituted for the former references to an
25 "incorporated town or city".

26 Also in the introductory language of subsection (a) of this section, the
27 reference to a county or municipal corporation "not [being] liable under §
28 14-1001 of this subtitle for theft, damage, or destruction that occurs in a
29 riot" is substituted for the former reference to "[n]o such liability [being]
30 incurred" by a county or municipal corporation, for clarity.

31 In subsection (a)(1) and (2) of this section, the references to "theft" are
32 added for consistency with § 14-1001(b) of this subtitle.

33 Also in subsection (a)(1) and (2) of this section, the references to "damage"
34 are substituted for the former references to "injury" for consistency with §
35 14-1001(b) of this subtitle.

36 In subsection (a)(1) of this section, the reference to "the riot" is substituted
37 for the former reference to "such riot or tumultuous assemblage" for
38 consistency within this subtitle. Correspondingly, in subsection (b) of this
39 section, the reference to "the riot" is substituted for the former reference to
40 "such riotous or unlawful assemblages".

1 %In subsection (a)(2) of this section, the reference to "destruction" is added
2 for consistency with subsection (a)(1) of this section and § 14-1001(b) of
3 this subtitle.

4 Also in subsection (a)(2) of this section, the former phrase "it being the
5 intention of this article that no such liability shall devolve on such county,
6 town or city" is deleted as surplusage.

7 In subsection (b) of this section, the prohibition that "[a] person may not
8 recover damages from a county or municipal corporation under § 14-1001
9 of this subtitle" is substituted for the former prohibition that "[i]n no case
10 shall indemnity be recovered" for clarity.

11 Also in subsection (b) of this section, the former reference to "civil"
12 authorities is deleted for consistency with subsection (a) of this section.

13 Also in subsection (b) of this section, the word "entrusted" is substituted for
14 the former word "intrusted" to use the more common form of the word.

15 Also in subsection (b) of this section, the reference to "all" reasonable
16 diligence is deleted as implicit.

17 Defined terms: "County" § 1-101

18 "Person" § 1-101

19 14-1003. LIMITATION.

20 AN ACTION FOR DAMAGES UNDER § 14-1001 OF THIS SUBTITLE SHALL BE FILED
21 WITHIN 3 YEARS AFTER THE DATE IT ACCRUES.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 82, § 2, as it related to a limitations period for
24 actions.

25 The reference to "[a]n action for damages" is substituted for the former
26 reference to "all causes of action" for clarity and consistency with §
27 14-1001(b) of this subtitle.

28 The reference to "fil[ing]" an action is substituted for the former reference
29 to "prosecut[ing]" an action for consistency with the terminology used in
30 Title 5, Subtitle 1 of the Courts Article, which establishes limitations
31 periods for various kinds of actions.

32 14-1004. PLEADINGS.

33 THE FORM OF ANY PLEADING IN AN ACTION UNDER § 14-1001 OF THIS SUBTITLE
34 SHALL BE GOVERNED BY THE MARYLAND RULES.

35 REVISOR'S NOTE: This section is new language substituted for former Art.
36 82, § 4 to reflect that, under current rules of civil procedure, the form and

1 contents of pleadings are prescribed by the Maryland Rules. *See* Md. Rules
2 2-303 and 3-303.

3 GENERAL REVISOR'S NOTE TO SUBTITLE:

4 The Public Safety Article Review Committee notes, for consideration by the
5 General Assembly, that former Article 82, §§ 1 through 4 of the Code (the "Riot Act"),
6 were enacted in 1835 as a result of the bank riots which occurred in Baltimore in
7 August 1835. Since its enactment, the "Riot Act" has been amended only once, in
8 1867, and apparently was last used to sue for damages sustained in the civil disorders
9 that occurred in Baltimore in April 1968 following the assassination of Dr. Martin
10 Luther King, Jr. (*see City of Baltimore v. Blibaum*, 280 Md. 652 (1977)). It is
11 questionable whether the policies and premises underpinning the law are valid in
12 today's society (for example, the policy of imposing liability on a local government to
13 encourage local authorities and citizens to try to suppress a riot when today there are
14 law enforcement agencies trained to control crime). The General Assembly may wish
15 to review this law to determine whether it continues to serve a purpose in modern
16 society.

17 GENERAL REVISOR'S NOTE TO ARTICLE:

18 The Department of Legislative Services is charged with revising the law in a
19 clear, concise, and organized manner, without changing the effect of the law. One
20 precept of revision has been that, once something is said, it should be said in the same
21 way every time. To that end, the Public Safety Article Review Committee conformed
22 the language and organization of this article to that of previously enacted revised
23 articles to the extent possible.

24 It is the manifest intent both of the General Assembly and the Public Safety
25 Article Review Committee that this bulk revision of the substantive public safety law
26 of the State render no substantive change. The guiding principle of the preparation of
27 this article is that stated in *Welch v. Humphrey*, 200 Md. 410, 417 (1952):

28 [T]he principal function of a Code is to reorganize the statutes and state
29 them in simpler form. Consequently any changes made in them by a Code
30 are presumed to be for the purpose of clarity rather than change of
31 meaning. Therefore, even a change in the phraseology of a statute by a
32 codification thereof will not ordinarily modify the law, unless the change is
33 so radical and material that the intention of the Legislature to modify the
34 law appears unmistakably from the language of the Code. (citations
35 omitted)

36 Accordingly, except to the extent that changes, which are noted in Revisor's Notes,
37 clarify the former law, the enactment of this article in no way is intended to make any
38 change to the substantive law of Maryland.

39 Throughout this article, as in other revised articles, the word "regulations"
40 generally is substituted for former references to "rules and regulations" to
41 distinguish, to the extent possible, between regulations of executive units and rules of
42 judicial or legislative units and to establish consistency in the use of the words. This

1 substitution conforms to the practice of the Division of State Documents. However, in
2 some instances, references to "rules" of executive agencies such as the Department of
3 State Police are retained to reflect that the agency has adopted rules to govern the
4 internal management of the agency.

5 Also throughout this article, for consistency and to avoid unnecessary confusion,
6 the singular verb "adopt" is used in relation to rules or regulations, and verbs such as
7 "prescribe" and "promulgate" are deleted. The procedures to be followed in adopting
8 regulations are set forth in Title 10, Subtitle 1 of the State Government Article.

9 Also throughout this article, for consistency, references to adopting regulations
10 to "carry out" particular provisions of this article are substituted for former references
11 to adopting regulations to "administer", "implement", "accomplish the purpose of", or
12 "accomplish the objectives of" the relevant provisions.

13 Also throughout this article, for consistency, the word "law" is substituted for
14 former phrases such as "law or regulation" because the broad reference to a "law"
15 includes a "regulation" adopted under the authority of a law. *See, e.g., Maryland Port*
16 *Administration v. Brawner Contracting Co.*, 303 Md. 44, 60 (1985).

17 Also throughout this article, for clarity and consistency, references to "the
18 public" or "members of the public" are substituted for former references such as "the
19 citizens of this State" and "the citizens of Maryland" because the meaning of the word
20 "citizen" in this context is unclear. Also throughout this article, for brevity and
21 consistency, references to "the public" are substituted for former references such as
22 "the general public" and "the public at large".

23 Also throughout this article, for clarity and consistency, references to "career"
24 firefighters are substituted for former references to "paid" firefighters, "full-time"
25 firefighters, and "professional" firefighters. References to "volunteer" firefighters are
26 retained. Similarly, throughout this article, for consistency, references to "career" fire
27 companies and departments are substituted for former references to "paid" fire
28 companies and departments and references to "volunteer" fire companies and
29 departments are retained.

30 Also throughout this article, for consistency, the word "money" is substituted for
31 former references to "moneys" and "funds" and, if appropriate, for former references to
32 "aid", "resources", "financial assistance", and "proceeds". In this article, a reference to
33 a "fund" usually indicates a special fund, which consists of revenues that by law are
34 dedicated to support a particular purpose and may not be used for other purposes. *See*
35 *generally* Titles 4 and 8 of this article.

36 Also throughout this article, for consistency, the term "grants" is used and is
37 substituted for former references such as "awards" and "grants and awards".

38 Also throughout this article, for consistency, the term "municipal corporation" is
39 substituted for former references such as "municipality", "incorporated city",
40 "incorporated town", and "incorporated municipality" to conform to Art. XI-E of the
41 Maryland Constitution.

1 Also throughout this article, for consistency, references to the "local governing
2 body of a county" are substituted for former references such as the "board of county
3 commissioners, county council of the county, and the Mayor and City Council of
4 Baltimore". The reference to the "local governing body" of a county is broad enough to
5 encompass any form of government in the county, including traditional commission
6 government, charter home rule, and code home rule.

7 In some provisions in this article, as in other revised articles, the term "unit" is
8 substituted for former references to State entities such as an "agency", "department",
9 "division", "office", "commission", "board", "committee", and "council". In revised
10 articles of the Code, the term "unit" is used as the general term for an organization in
11 the State government because it is broad enough to include all such entities. The
12 titles "Police Training Commission" and "State Fire Prevention Commission" are
13 retained in the revision, however, because they indicate specific entities.

14 The Public Safety Article Review Committee also decided to use the term "law
15 enforcement agency", rather than "law enforcement unit", throughout this article
16 because "law enforcement agency" is the more commonly used term.

17 References to current units and positions are substituted for obsolete references
18 to entities and positions that have been abolished or have otherwise ceased to exist.

19 In some "Membership" provisions in this article, there is a subsection captioned
20 "Tenure; vacancies". A standard paragraph included in those subsections provides
21 that a "member who is appointed after a term has begun serves only for the rest of the
22 term and until a successor is appointed and qualifies". This paragraph applies: (1)
23 when a successor is appointed to replace a member who has died, resigned, or failed
24 for any other reason to complete a term; (2) when a member is appointed to succeed a
25 member who has "held over" to part of the next term, pending the delayed
26 appointment and qualification of the successor; or (3) when, in any other situation, a
27 member takes office after a term has begun, *e.g.*, when, at the completion of a term,
28 there is a delay in the appointment of a successor but the member who served the
29 prior term does not "hold over".

30 The Public Safety Article Review Committee considered several provisions
31 contained in the public safety laws to be more suitable for revision in other articles.

32 Former Art. 27, § 268C and part of § 268B, which prohibited target practice or
33 discharging a gun or weapon on the land of another without permission in Anne
34 Arundel County, Caroline County, and St. Mary's County, are revised in § 4-108 of the
35 Criminal Law Article.

36 Former Art. 27, § 268D and part of § 268B, which prohibited hunting on the land
37 of another without permission in Anne Arundel County, Caroline County, and Harford
38 County, are revised in § 10-411 of the Natural Resources Article.

39 Former Art. 38A, § 34F, which authorized forfeiture of vehicles, vessels, and
40 aircraft used or employed during violation of the explosives laws, is revised in §
41 13-301 of the Criminal Procedure Article.

1 The Public Safety Article Review Committee considered several provisions
2 contained in the public safety laws to be more suitable for transfer to other articles or
3 for repeal than for revision in the Public Safety Article.

4 Former Art. 88B, §§ 64 through 69, the State Aid for Police Protection Fund, is
5 transferred to Article 41, §§ 4-401 through 4-406 of the Code.

6 Former Art. 41, § 4-906, which authorized citations for offenses on publicly
7 owned watershed property, is transferred to § 8-2003 of the Natural Resources
8 Article.

9 Former Art. 89, § 64, which prohibited smoking tobacco products in public
10 elevators and provided a civil penalty, is transferred to § 24-212 of the Health -
11 General Article.

12 Former Art. 89, § 2B, which provided for the termination of certain provisions
13 relating to the regulation of labor and industry, is repealed as duplicative of § 2-109
14 of the Labor and Employment Article.

15 A few provisions allocated to the Public Safety Article are transferred to the
16 Session Laws because of limited and diminishing applicability or limited duration. In
17 addition, some apparently obsolete provisions allocated to the Public Safety Article
18 are transferred to the Session Laws for historical purposes or to avoid any
19 inadvertent substantive effect their repeal might have.

20 In some instances, the staff of the Department of Legislative Services may
21 create "Special Revisor's Notes" to reflect the substantive effect of legislation enacted
22 during the 2003 Session on some provisions of this article.

23 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
24 read as follows:

25 **Article 1 - Rules of Interpretation**

26 25.

27 (a) Unnumbered revised articles of the Annotated Code of Maryland may be
28 cited as stated in this section.

29 (b) A section of the Agriculture Article may be cited as: "§ ___ of the
30 Agriculture Article".

31 (c) A section of the Business Occupations and Professions Article may be cited
32 as: "§ ___ of the Business Occupations and Professions Article".

33 (d) A section of the Business Regulation Article may be cited as: "§ ___ of the
34 Business Regulation Article".

35 (e) A section of the Commercial Law Article may be cited as: "§ ___ of the
36 Commercial Law Article".

1 (f) A section of the Corporations and Associations Article may be cited as: "§
2 ___ of the Corporations and Associations Article".

3 (g) A section of the Correctional Services Article may be cited as: "§ ___ of the
4 Correctional Services Article".

5 (h) A section of the Courts and Judicial Proceedings Article may be cited as: "§
6 ___ of the Courts Article".

7 (i) A section of the Criminal Law Article may be cited as: "§ ___ of the
8 Criminal Law Article".

9 (j) A section of the Criminal Procedure Article may be cited as: "§ ___ of the
10 Criminal Procedure Article".

11 (k) A section of the Education Article may be cited as: "§ ___ of the Education
12 Article".

13 (l) A section of the Election Law Article may be cited as: "§ ___ of the Election
14 Law Article".

15 (m) A section of the Environment Article may be cited as: "§ ___ of the
16 Environment Article".

17 (n) A section of the Estates and Trusts Article may be cited as: "§ ___ of the
18 Estates and Trusts Article".

19 (o) A section of the Family Law Article may be cited as: "§ ___ of the Family
20 Law Article".

21 (p) A section of the Financial Institutions Article may be cited as: "§ ___ of the
22 Financial Institutions Article".

23 (q) A section of the Health - General Article may be cited as: "§ ___ of the
24 Health - General Article".

25 (r) A section of the Health Occupations Article may be cited as: "§ ___ of the
26 Health Occupations Article".

27 (s) A section of the Insurance Article may be cited as: "§ ___ of the Insurance
28 Article".

29 (t) A section of the Labor and Employment Article may be cited as: "§ ___ of
30 the Labor and Employment Article".

31 (u) A section of the Natural Resources Article may be cited as: "§ ___ of the
32 Natural Resources Article".

33 (V) A SECTION OF THE PUBLIC SAFETY ARTICLE MAY BE CITED AS : "§ ___ OF
34 THE PUBLIC SAFETY ARTICLE".

1 [(v)] (W) A section of the Public Utility Companies Article may be cited as: "§
2 ___ of the Public Utility Companies Article".

3 [(w)] (X) A section of the Real Property Article may be cited as: "§ ___ of the
4 Real Property Article".

5 [(x)] (Y) A section of the State Finance and Procurement Article may be cited
6 as: "§ ___ of the State Finance and Procurement Article".

7 [(y)] (Z) A section of the State Government Article may be cited as: "§ ___ of
8 the State Government Article".

9 [(z)] (AA) A section of the State Personnel and Pensions Article may be cited as:
10 "§ ___ of the State Personnel and Pensions Article".

11 [(aa)] (BB) A section of the Tax - General Article may be cited as: "§ ___ of the
12 Tax - General Article".

13 [(bb)] (CC) A section of the Tax - Property Article may be cited as: "§ ___ of the
14 Tax - Property Article".

15 [(cc)] (DD) A section of the Transportation Article may be cited as: "§ ___ of the
16 Transportation Article".

17 **Article - Criminal Law**

18 4-108. TARGET PRACTICE OR DISCHARGING GUN OR WEAPON.

19 (A) PROHIBITED.

20 IN ANNE ARUNDEL COUNTY, CAROLINE COUNTY, AND ST. MARY'S COUNTY A
21 PERSON MAY NOT TARGET PRACTICE WITH A GUN OR WEAPON OR DISCHARGE A GUN
22 OR WEAPON ON THE LAND OF ANOTHER WITHOUT FIRST OBTAINING WRITTEN
23 PERMISSION FROM THE OWNER OR POSSESSOR OF THE LAND.

24 (B) PENALTIES.

25 (1) (I) IN ANNE ARUNDEL COUNTY AND CAROLINE COUNTY A PERSON
26 WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION
27 IS SUBJECT TO:

28 1. FOR A FIRST VIOLATION, A FINE OF NOT LESS THAN \$250
29 AND NOT EXCEEDING \$1,000; AND

30 2. FOR EACH SUBSEQUENT VIOLATION, A FINE OF NOT LESS
31 THAN \$500 AND NOT EXCEEDING \$2,000.

32 (II) IF A PERSON FAILS TO PAY A FINE IMPOSED UNDER THIS
33 PARAGRAPH, FURTHER PROCEEDINGS SHALL BE HELD IN ACCORDANCE WITH
34 ARTICLE 38, § 4 OF THE CODE.

1 (2) IN ST. MARY'S COUNTY A PERSON WHO VIOLATES THIS SECTION IS
 2 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
 3 EXCEEDING \$1,000.

4 REVISOR'S NOTE: Chapter ____, Acts of 2003, which enacted the Public Safety
 5 Article, also enacted this section, which is new language derived without
 6 substantive change from former Art. 27, § 268C and, as it related to target
 7 practice or discharging a gun or weapon, § 268B.

8 The balance of former Art. 27, § 268B is revised in § 10-411 of the Natural
 9 Resources Article.

10 In subsection (a) of this section, the former reference to the "landowner's
 11 agent or lessee" is deleted as unnecessary in light of the general reference
 12 to the "owner or possessor of the land".

13 In subsection (b)(1)(i)1 of this section, the former phrase "by the judge of
 14 the District Court" is deleted as implicit in the reference to being subject to
 15 a fine.

16 In subsection (b)(1)(i)2 of this section, the former reference to a "second"
 17 conviction is deleted as included in the reference to a conviction for a
 18 "subsequent" violation.

19 Also in subsection (b)(1)(i)2 of this section, the second clause of the fourth
 20 sentence of former Art. 27, § 268B, which provided for the right to appeal to
 21 the Circuit Court within 30 days after the date of conviction in the District
 22 Court, is deleted as unnecessary in light of the rules of appellate
 23 procedure. See CJ § 12-401.

24 Defined term: "Person" § 1-101

25 **Article - Criminal Procedure**

26 **SUBTITLE 3. VIOLATIONS OF EXPLOSIVES LAWS.**

27 **13-301. FORFEITURE FOR VIOLATION OF EXPLOSIVES LAWS.**

28 (A) **SCOPE OF SECTION.**

29 **THIS SECTION DOES NOT APPLY TO A VEHICLE UNLESS THE OWNER**
 30 **AUTHORIZED OR ALLOWED THE VEHICLE TO BE USED OR EMPLOYED IN**
 31 **CONCEALING, CONVEYING, OR TRANSPORTING EXPLOSIVES DURING THE COURSE OF**
 32 **A VIOLATION OF TITLE 11, SUBTITLE 1 OF THE PUBLIC SAFETY ARTICLE.**

33 (B) **IN GENERAL.**

34 **IN ADDITION TO ANY OTHER PENALTY PROVIDED FOR A VIOLATION OF TITLE 11,**
 35 **SUBTITLE 1 OF THE PUBLIC SAFETY ARTICLE, IF A PERSON ON WHOM A PENALTY IS**
 36 **IMPOSED UNDER § 11-116 OF THE PUBLIC SAFETY ARTICLE USES OR EMPLOYS A**

1 MOTOR VEHICLE, OTHER VEHICLE, VESSEL, OR AIRCRAFT IN CONCEALING,
 2 CONVEYING, OR TRANSPORTING EXPLOSIVES DURING THE COURSE OF A VIOLATION
 3 OF TITLE 11, SUBTITLE 1 OF THE PUBLIC SAFETY ARTICLE, THE COURT ON
 4 CONVICTION OF THE PERSON SHALL ORDER THE MOTOR VEHICLE, OTHER VEHICLE,
 5 VESSEL, OR AIRCRAFT TO BE FORFEITED TO THE STATE OR A COUNTY, BASED ON
 6 WHICH JURISDICTION INITIATED THE INVESTIGATION.

7 (C) SECURITY INTERESTS.

8 IF A COURT ORDERS FORFEITURE UNDER SUBSECTION (B) OF THIS SECTION,
 9 THE INTEREST TRANSFERRED TO THE STATE OR COUNTY IS SUBORDINATE TO THE
 10 HOLDER OF A PERFECTED SECURITY INTEREST IN THE MOTOR VEHICLE, OTHER
 11 VEHICLE, VESSEL, OR AIRCRAFT.

12 (D) DISPOSITION OF FORFEITED PROPERTY.

13 (1) AFTER DISCHARGING ANY PERFECTED SECURITY INTEREST IN A
 14 FORFEITED MOTOR VEHICLE, OTHER VEHICLE, VESSEL, OR AIRCRAFT, THE
 15 SECRETARY OF STATE POLICE OR THE LOCAL GOVERNING BODY OF A COUNTY MAY:

16 (I) USE THE FORFEITED MOTOR VEHICLE, OTHER VEHICLE,
 17 VESSEL, OR AIRCRAFT FOR PUBLIC PURPOSES; OR

18 (II) SELL, EXCHANGE, OR CONVEY THE FORFEITED MOTOR
 19 VEHICLE, OTHER VEHICLE, VESSEL, OR AIRCRAFT.

20 (2) ANY MONEY RECEIVED FROM THE SALE, EXCHANGE, OR
 21 CONVEYANCE SHALL BE DEPOSITED IN THE GENERAL FUND OF THE STATE OR
 22 COUNTY.

23 REVISOR'S NOTE: Chapter ____, Acts of 2003, which enacted the Public Safety
 24 Article, also enacted this section, which is new language derived without
 25 substantive change from former Art. 38A, § 34F.

26 In subsections (b), (c), and (d) of this section, the former references to
 27 "Baltimore City" are deleted in light of the defined term "county", which
 28 includes Baltimore City. See § 1-101 of this article.

29 In subsection (b) of this section, the former references to "fine[s]" are
 30 deleted as included in the reference to a "penalty".

31 In subsection (c) of this section, the phrase "[i]f a court orders forfeiture
 32 under subsection (b) of this section" is added to state explicitly how the
 33 interest is transferred.

34 In subsection (d)(1) of this section, the general reference to the "local
 35 governing body" of a county is substituted for the former specific reference
 36 to the "county commissioners or the Mayor and City Council of Baltimore
 37 City" to conform to terminology used in the Public Safety Article. See Title
 38 14, Subtitle 4 of the Public Safety Article. This provision applies to all

1 counties in the State, regardless of their form of governance.

2 In subsection (d)(2) of this section, the former reference to "cash" is deleted
3 as included in the reference to "money".

4 Defined terms: "County" § 1-101

5 "Person" § 1-101

6 **Article - Natural Resources**

7 10-411.

8 (a) Except as otherwise provided, a person may not come to hunt upon any
9 pretense whatever on lands owned by another person without the permission of the
10 landowner or the landowner's agent or lessee. Any person hunting on private property
11 shall be liable for any damage he causes to the private property while hunting. The
12 landowner is not liable for accidental injury or damage to the person, whether or not
13 the landowner or the landowner's agent or lessee gave the permission to hunt.

14 (b) (1) A person may not upon any pretense come to hunt on the lands owned
15 by another person without the written permission of the landowner or the
16 landowner's agent or lessee. Any person hunting on this private property is liable for
17 any damage the person causes to the private property while hunting on the private
18 property. The landowner may not be liable for accidental injury or damage to the
19 person whether or not the landowner or the landowner's agent gave permission to
20 hunt on the private property.

21 (2) The provisions of this subsection apply only in the following counties:

22 (i) Allegany County;

23 (ii) Anne Arundel County;

24 (iii) Baltimore County;

25 (iv) Calvert County;

26 (v) Carroll County;

27 (vi) Cecil County;

28 (vii) Charles County;

29 (viii) Frederick County;

30 (ix) Garrett County;

31 (x) Harford County;

32 (xi) Howard County;

- 1 (xii) Montgomery County;
- 2 (xiii) Prince George's County;
- 3 (xiv) St. Mary's County; and
- 4 (xv) Washington County.

5 (3) IN HARFORD COUNTY A PERSON WHO VIOLATES THIS SUBSECTION
6 IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT
7 LESS THAN \$25 AND NOT EXCEEDING \$250.

8 (c) In Allegany, Anne Arundel, Baltimore, Carroll, Charles, Garrett,
9 Frederick, Wicomico, Somerset, Howard, or Worcester counties, a person may not
10 enter or trespass upon land owned by another person for the purpose of hunting deer
11 on the land with gun, rifle, bow and arrow, or any other means without first securing
12 the written permission of the landowner or the landowner's agent or lessee. Any
13 person hunting deer on land owned by another person shall exhibit written
14 permission upon the request of any Natural Resources police officer, any law
15 enforcement officer, the landowner, or the landowner's agent or lessee. The Natural
16 Resources police officer or any law enforcement officer shall arrest any person
17 hunting without written permission upon the request of the landowner or the
18 landowner's agent or lessee.

19 (d) (1) In Anne Arundel, Caroline, Carroll, Cecil, Frederick, Howard, Kent,
20 Prince George's, Queen Anne's, Talbot, and Washington counties, a person who hunts
21 with a gun or other weapon upon the lands of another without first obtaining written
22 permission from the owner or possessor of the land is guilty of a misdemeanor, and
23 upon conviction of a first offense is subject to a fine not exceeding \$1,000. Upon
24 conviction of a second or subsequent offense, the person is subject to a fine not
25 exceeding \$2,000.

26 (2) IN ANNE ARUNDEL COUNTY AND CAROLINE COUNTY A PERSON WHO
27 FAILS TO PAY A FINE IMPOSED UNDER THIS SUBSECTION IS SUBJECT TO FURTHER
28 PROCEEDINGS IN ACCORDANCE WITH ARTICLE 38, § 4 OF THE CODE.

29 REVISOR'S NOTE: Chapter ____, Acts of 2003, which enacted the Public Safety
30 Article, also amended this section to revise without substantive change
31 former Art. 27, § 268D and, except as it related to target practice or
32 discharging a gun or weapon, § 268B.

33 The balance of former Art. 27, § 268B is revised in § 4-108 of the Criminal
34 Law Article.

35 SECTION 4. AND BE IT FURTHER ENACTED, That Section(s) 64 through 69,
36 respectively, and the subtitle "State Aid for Police Protection Fund" of Article 88B -
37 Department of State Police of the Annotated Code of Maryland be repealed and
38 reenacted, with amendments, and transferred to be Section(s) 4-401 through 4-406,
39 respectively, and the subtitle "Subtitle 4. State Aid for Police Protection Fund" of

1 Article 41 - Governor - Executive and Administrative Departments of the Annotated
2 Code of Maryland, to read as follows:

3 **Article 41 - Governor - Executive and Administrative Departments**

4 SUBTITLE 4. State Aid for Police Protection Fund.

5 [64.] 4-401.

6 There is hereby created out of the general funds of the State a fund to be known
7 as the State Aid for Police Protection Fund, to be used for the purpose and distributed
8 in the manner hereinafter specified.

9 REVISOR'S NOTE: This section formerly was Art. 88B, § 64.

10 No changes are made.

11 [65.] 4-402.

12 (a) The State Aid for Police Protection Fund is a continuing grant, intended for
13 and to be used exclusively to provide adequate police protection in the subdivisions
14 and qualifying municipalities of this State, by State and subdivision sharing of costs
15 on an equitable basis within certain limits related to population factors.

16 (b) Provided, however, that nothing herein shall be construed as requiring a
17 subdivision or qualifying municipality to expend more for police protection than the
18 greater of:

19 (1) The actual expenditures for police protection, as defined in [§ 66 of
20 this article] § 4-403 OF THIS SUBTITLE, except for capital expenditures; or

21 (2) The sum of the amount received in State aid under this program and
22 local funds equal to that percentage of the local wealth used in calculating the State
23 share in basic expenditures under the provisions of [§ 66(b)(1) of this article] §
24 4-403(B)(1) OF THIS SUBTITLE.

25 REVISOR'S NOTE: This section formerly was Art. 88B, § 65.

26 The only changes are in style.

27 [66.] 4-403.

28 (a) As used in this subtitle:

29 (1) "Subdivision" means any county of Maryland but does not include
30 Baltimore City; or where the context requires, the governing body thereof.

31 (2) "Municipality" means any incorporated city or town, except
32 Baltimore City, within Maryland; or where the context requires, the governing body
33 thereof.

1 (3) "Expenditures for police protection" shall be those for the fiscal year
2 immediately preceding the fiscal year for which the calculation of State aid is to be
3 made. Thus, State aid for the first year of this grant (1968-1969) shall be based on
4 "expenditures for police protection" in the fiscal year ending June 30, 1968; State aid
5 for the second year of this grant (1969-1970) shall be based on expenditures in the
6 fiscal year ending June 30, 1969, and so forth. "Expenditures for police protection"
7 means salaries and wages, other operating expenses, capital outlays from current
8 operating funds, and properly identifiable debt service, paid for police protection.
9 Expenditures for sheriffs and constables are included only to the extent that such
10 officers perform police protection functions. Expenditures for traffic control, park
11 police, and a share of the cost of a central alarm system proportionate to its police use,
12 are included. No part of expenditures for collecting from or servicing parking meters,
13 nor of constructing or operating jails, is included.

14 (4) "Adjusted assessed valuation of real property" means 100% of the
15 assessed valuation of the operating real property of public utilities, plus 40% of the
16 assessed valuation of all other real property reported by the State Department of
17 Assessments and Taxation as of July 1 of the second fiscal year preceding the fiscal
18 year for which the calculation of State aid is to be made, plus 20% of new property
19 assessed between July 1 and December 31 of the second preceding fiscal year. "Real
20 property" means all property classified as real property under § 8-101(b) of the Tax -
21 Property Article.

22 (5) "Net taxable income" shall be the taxable income of individuals under
23 Title 10 of the Tax - General Article, as certified by the Comptroller of the Treasury
24 for the third completed calendar year preceding the fiscal year for which the
25 calculation of State aid is to be made. Thus, State aid for the first year of this grant
26 shall be based on taxable income in calendar year 1965, and State aid in succeeding
27 years on taxable income in corresponding succeeding calendar years.

28 (6) Population figures for total number of people in a subdivision, i.e.
29 figures used in per capita and density determinations, shall be those estimated by the
30 State Department of Health and Mental Hygiene, as of July 1 of each year.
31 Percentage of population residing in municipalities shall be determined from time to
32 time by the most recently published federal decennial census data.

33 (7) "Qualifying municipality" means a municipality:

34 (i) 1. Whose "expenditures for police protection", as defined
35 above, exceed \$5,000; and

36 2. That employs at least one qualified full-time police officer,
37 as determined by the Secretary OF STATE POLICE; or

38 (ii) 1. Whose "expenditures for police protection", as defined
39 above, exceed \$80,000; and

40 2. That employs at least two qualified part-time police
41 officers, as determined by the Secretary OF STATE POLICE, from a county police
42 department or county sheriff's department.

1 (8) "Wealth base" of a subdivision means the sum of the "adjusted
2 assessed valuation of real property" and "net taxable income".

3 (9) "Aggregate expenditures for police protection" for a subdivision
4 means the sum of "expenditures for police protection", as defined above, of that
5 subdivision and of every qualifying municipality in that subdivision.

6 (10) "Equivalent of X dollars per capita" means an amount of money equal
7 to the product of X times the number of people in the particular subdivision.

8 (11) Repealed.

9 (12) "Sworn officer" means:

10 (i) A law enforcement officer certified by the Police Training
11 Commission; or

12 (ii) A full-time probationary employee of a local government who:

13 1. Is hired to attend a police training academy to become a
14 certified law enforcement officer; and

15 2. Is in training or is functioning as a law enforcement officer
16 pending training.

17 (b) For the fiscal year beginning July 1, 1975, and thereafter, the State shall
18 pay to each subdivision, and to each qualifying municipality, each year in the manner
19 and subject to the limitations and requirements hereinafter provided, an amount
20 determined as follows:

21 (1) Share in Basic Expenditure. If the aggregate expenditures for police
22 protection in a subdivision equal or exceed \$6.00 per capita, the State shall pay to the
23 subdivision the amount, if any, by which the equivalent of \$6.00 per capita exceeds
24 0.09% of the wealth base. If the aggregate expenditures for police protection in a
25 subdivision are less than \$6.00 per capita, the State shall pay to the subdivision the
26 amount, if any, by which aggregate expenditures for police protection exceed that
27 proportion of 0.09 percent of the wealth base which aggregate expenditures for police
28 protection bear to the equivalent of \$6.00 per capita.

29 (2) Share Over the Basic Expenditure. In addition to the amount, if any,
30 payable under [subparagraph] PARAGRAPH (1) of this subsection, the State shall pay
31 to each subdivision an amount equal to 25% of the amount, if any, by which aggregate
32 expenditures for police protection exceed the equivalent of \$6.00 per capita. Provided
33 however:

34 (i) For subdivisions with a population density less than 100 per
35 square mile, and less than 30% of total population residing in municipalities, there
36 shall be no payment under this [subparagraph (2)] PARAGRAPH.

1 (ii) For subdivisions with population density 100 or more but less
2 than 500 per square mile, and for subdivisions with population density less than 100
3 per square mile but with 30% or more of total population residing in municipalities,
4 payment under this [subparagraph (2)] PARAGRAPH shall not exceed the equivalent
5 of \$3.50 per capita.

6 (iii) For subdivisions with population density 500 or more but less
7 than 900 per square mile, payment under this [subparagraph (2)] PARAGRAPH shall
8 not exceed the equivalent of \$7.50 per capita.

9 (iv) For subdivisions with population density 900 or more but less
10 than 1,100 per square mile, payment under THIS paragraph [(2)] shall not exceed the
11 equivalent of \$8.00 per capita.

12 (v) For subdivisions with population density 1,100 or more but less
13 than 1,300 per square mile, payment under THIS paragraph [(2)] shall not exceed the
14 equivalent of \$9.25 per capita.

15 (vi) For subdivisions with population density 1,300 or more but less
16 than 8,000 per square mile, payment under this [subparagraph (2)] PARAGRAPH
17 shall be 25% of the amount by which aggregate expenditures for police protection
18 exceed the equivalent of \$6.00 per capita but do not exceed the equivalent of \$36.00
19 per capita and 50% of the amount by which aggregate expenditures for police
20 protection exceed the equivalent of \$36.00 per capita but do not exceed the equivalent
21 of \$45.50 per capita.

22 (vii) For subdivisions with population density 8,000 or more per
23 square mile, payment under this [subparagraph (2)] PARAGRAPH shall be 25% of the
24 amount by which aggregate expenditures for police protection exceed the equivalent
25 of \$6.00 per capita but do not exceed the equivalent of \$36.00 per capita and 50% of
26 the amount by which aggregate expenditures for police protection exceed the
27 equivalent of \$36.00 per capita but do not exceed the equivalent of \$101.50 per capita.

28 (3) Minimum Grant. The State shall pay to each subdivision the amount,
29 if any, by which the equivalent of \$2.50 per capita exceeds the total payments
30 determined under [subparagraphs] PARAGRAPHS (1) AND (2) OF THIS SUBSECTION.
31 No subdivision for which the population estimate is less than the population
32 estimated for the first year of this grant shall receive in any year a smaller amount of
33 State aid for police protection than it received in any previous year, provided it has
34 not reduced the level of expenditure for police protection which entitled it to the
35 amount of that previous year's grant.

36 (4) Incentive Grant. In addition to the payments made under
37 [subparagraphs] PARAGRAPHS (1), (2), and (3) of this subsection, the State shall pay
38 to each subdivision with a population density of less than 500 per square mile, an
39 amount the equivalent of \$2.00 per capita.

40 (5) Supplemental Grant. (i) In addition to the payments made under
41 [subparagraphs] PARAGRAPHS (1), (2), (3) and (4) of this subsection, the State shall
42 pay:

1 1. To each subdivision, subject to subparagraph (ii) of this
2 paragraph, an amount the equivalent of \$2.50 per capita; and
3 2. To Baltimore City, an amount the equivalent of fifty cents
4 per capita.

5 (ii) The State shall allocate and distribute the supplemental grant
6 to each subdivision among the subdivisions and the qualifying municipalities in those
7 subdivisions on a per capita basis.

8 (6) Additional Grant. For the fiscal year ending June 30, 1981, and for
9 each fiscal year thereafter, an additional grant equal to 10 percent of the total of the
10 payments determined under [subparagraphs] PARAGRAPHS (1), (2), (3) and (4) of this
11 subsection, or an amount which shall not exceed the equivalent of \$1 per capita,
12 whichever is the larger, shall be paid to the subdivisions.

13 (7) Minimum Payment in Certain Years. Each subdivision shall be paid
14 that amount, if any, by which the grant paid to the subdivision in the fiscal year
15 ending June 30, 1984 exceeds the total payments determined under [subparagraphs]
16 PARAGRAPHS (1), (2), (3), (4), (5) and (6) of this subsection.

17 (8) Municipal Sworn Officer Allocation. The State shall pay to each
18 qualifying municipality, in addition to the payments made under [subparagraphs]
19 PARAGRAPHS (1) through (7) of this subsection an amount equal to \$1,800 for each
20 sworn police officer actually employed on a full-time basis by the qualifying
21 municipality, as determined by the Secretary OF STATE POLICE.

22 (c) The payment received by each subdivision under [subparagraphs]
23 SUBSECTION (B)(1), (2), (3), (4), (6) and (7) of [subsection (b)] THIS SECTION shall be
24 paid to each subdivision and qualifying municipality, in the exact proportion which
25 the expenditures for police protection of the subdivision and of each qualifying
26 municipality bear to aggregate expenditures for police protection.

27 REVISOR'S NOTE: This section formerly was Art. 88B, § 66.

28 The only changes are in style.

29 [67.] 4-404.

30 Payments out of the State Aid for Police Protection Fund shall be made to each
31 subdivision and qualifying municipality by the State Treasurer upon warrants of the
32 State Comptroller. Payments shall be made at the end of each quarter of each fiscal
33 year thereafter, and shall be paid in approximately equal amounts for each quarter to
34 the appropriate qualifying municipality or subdivision.

35 REVISOR'S NOTE: This section formerly was Art. 88B, § 67.

36 No changes are made.

1 [68.] 4-405.

2 (a) If the Secretary OF STATE POLICE finds that a county is not complying
3 with the maintenance of effort provisions of [§ 65 of this article] § 4-402 OF THIS
4 SUBTITLE, the Secretary OF STATE POLICE shall notify the subdivision or qualifying
5 municipality of such noncompliance.

6 (b) If a subdivision or qualifying municipality disputes the finding within 30
7 days of the issuance of such notice, the dispute shall be promptly referred to the
8 Secretary of the Department of Budget and Management, who shall make a final
9 determination.

10 (c) Upon receipt of certification of noncompliance by the Secretary of [the]
11 State Police or the Secretary of the Department of Budget and Management, as the
12 case may be, the Comptroller shall suspend, until notification of compliance is
13 received, payment of any funds due the subdivision or qualifying municipality for the
14 current fiscal year, as provided in [§ 66 of this article] § 4-403 OF THIS SUBTITLE, to
15 the extent that the State's aid due the subdivision or qualifying municipality in the
16 current fiscal year under that section exceeds the amount which the subdivision or
17 qualifying municipality received in the prior fiscal year.

18 REVISOR'S NOTE: This section formerly was Art. 88B, § 68.

19 The only changes are in style.

20 [69.] 4-406.

21 (a) The Secretary of [the] State Police shall administer the State Aid for
22 Police Protection Fund.

23 (b) The Secretary OF STATE POLICE shall:

24 (1) Certify to the Comptroller and to the subdivisions and qualifying
25 municipalities the amount of payments to the subdivisions and qualifying
26 municipalities; and

27 (2) Make such regulations and require such reports as are necessary to
28 certify the amounts.

29 (c) In administering the Fund, the Secretary OF STATE POLICE shall:

30 (1) Make a continuing effort to establish standards of police protection
31 adequate to the various local situations; and

32 (2) Subject to § 2-1246 of the State Government Article, report
33 periodically to the General Assembly on progress in establishing and meeting those
34 standards, including the payment amounts certified under subsection (b) of this
35 section and any other relevant fiscal information.

1 (d) In determining qualification under [§ 66(a)(7) of this subtitle] § 4-403(A)(7)
 2 OF THIS SUBTITLE, the minimum standards determined by the Police Training
 3 Commission under authority of [Article 41, § 4-201 of the Code] TITLE 3, SUBTITLE 2
 4 OF THE PUBLIC SAFETY ARTICLE shall be applied.

5 (e) The Police Training Commission shall print and distribute to all
 6 municipalities its rules and regulations setting forth the minimum standards of police
 7 qualifications.

8 (f) (1) In the event a municipality fails to meet the minimum standards for
 9 two successive years, the Secretary OF STATE POLICE shall withhold payments to the
 10 municipality with respect to the second year.

11 (2) Any payment withheld for noncompliance is forfeited, and a claim
 12 may not be made by the municipality for the funds.

13 REVISOR'S NOTE: This section formerly was Art. 88B, § 69.

14 The only changes are in style.

15 SECTION 5. AND BE IT FURTHER ENACTED, That Section(s) 4-906 of
 16 Article 41 - Governor - Executive and Administrative Departments of the Annotated
 17 Code of Maryland be transferred to be Section(s) 8-2003 of Article - Natural
 18 Resources of the Annotated Code of Maryland.

19 SECTION 6. AND BE IT FURTHER ENACTED, That Section(s) 64 of Article 89
 20 - Miscellaneous Business, Work, and Safety Provisions of the Annotated Code of
 21 Maryland be transferred to be Section(s) 24-212 of Article - Health - General of the
 22 Annotated Code of Maryland.

23 SECTION 7. AND BE IT FURTHER ENACTED, That Section(s) 7(c)(1)(ii) of
 24 Article 38A - Fires and Investigations of the Annotated Code of Maryland be repealed
 25 and reenacted, with amendments, and transferred to the Session Laws, to read as
 26 follows:

27 DEPUTY AND SPECIAL DEPUTY STATE FIRE MARSHALS SERVING ON JULY 1, 1985

28 [7.] 1.

29 [(c) (1) (ii) The minimum qualifications for an assistant State fire marshal
 30 shall be the completion of National Fire Protection Association (NFPA) Standard 1031
 31 - Fire Inspector I or the equivalent, as determined by the State Fire Marshal.
 32 However, all] ALL legally appointed deputy State fire marshals or special deputy
 33 State fire marshals serving as of July 1, 1985, are exempt from the minimum
 34 standard provisions of [this section] § 6-304 OF THE PUBLIC SAFETY ARTICLE. [The
 35 State Fire Marshal may administer an examination based upon NFPA 1031 before a
 36 person is certified as an assistant State fire marshal.]

37 REVISOR'S NOTE: This section formerly was Art. 38A, § 7(c)(1)(ii).

1 %The first and third sentences of former Art. 38A, § 7(c)(1)(ii) are revised as
2 § 6-304(b) of the Public Safety Article.

3 The second sentence of former Art. 38A, § 7(c)(1)(ii) exempts from certain
4 minimum qualifications deputy State fire marshals and special deputy
5 State fire marshals who were serving on July 1, 1985. It is not retained in
6 the Code because of its limited and diminishing applicability. However, it is
7 transferred to the Session Laws to avoid any inadvertent substantive effect
8 that its repeal might have.

9 The only changes are in style.

10 SECTION 8. AND BE IT FURTHER ENACTED, That Section(s) 10-811 of
11 Article 41 - Governor - Executive and Administrative Departments of the Annotated
12 Code of Maryland be repealed and reenacted, with amendments, and transferred to
13 the Session Laws, to read as follows:

14 TERMINATION OF STATE STANDBY PETROLEUM FUEL SET-ASIDE PROGRAM

15 [10-811.] 1.

16 [This subtitle] TITLE 14, SUBTITLE 5 OF THE PUBLIC SAFETY ARTICLE shall
17 remain effective only until July 1, 2005, and, at the end of June 30, 2005, with no
18 further action required by the General Assembly, [this Act] TITLE 14, SUBTITLE 5 OF
19 THE PUBLIC SAFETY ARTICLE shall be abrogated and of no further force and effect.

20 REVISOR'S NOTE: This section formerly was Art. 41, § 10-811.

21 The Public Safety Article Review Committee decided to transfer this
22 provision to the Session Laws because generally when a subtitle is of
23 limited duration, the termination provision for the subtitle is not codified.

24 The only changes are in style.

25 SECTION 9. AND BE IT FURTHER ENACTED, That Section(s) 18-104 and
26 18-108(d) and (e) of Article 41 - Governor - Executive and Administrative
27 Departments of the Annotated Code of Maryland be repealed and reenacted, with
28 amendments, and transferred to the Session Laws, to read as follows:

29 ENHANCED 911 SYSTEM

30 [18-104.] 1.

31 (a) Any county or any several counties together which seek reimbursement for
32 the enhancement of a 911 system shall submit to the EMERGENCY NUMBER SYSTEMS
33 Board a 911 system plan for that county or multicounty area. The county or the
34 several counties shall submit plans for enhancement of a 911 system on or before July
35 1, 1993. The plan shall conform to the planning guidelines set by the EMERGENCY
36 NUMBER SYSTEMS Board and shall be designed to meet the requirements of those

1 public safety agencies whose services are available through the 911 system. The plan
2 shall include:

3 (1) The type of equipment to be used in enhancing the 911 system,
4 including associated costs;

5 (2) The personnel necessary to operate and maintain the enhanced 911
6 system;

7 (3) The timetable for implementing the enhanced 911 system; and

8 (4) Any other information required by the EMERGENCY NUMBER
9 SYSTEMS Board.

10 (b) Those counties which do not seek reimbursement for the cost of enhancing
11 a 911 system shall submit a report to the EMERGENCY NUMBER SYSTEMS Board by
12 July 1, 1995 containing the same information required in the county plans described
13 in subsection (a) of this section.

14 (c) Those counties which are certified by the EMERGENCY NUMBER SYSTEMS
15 Board as having an operational enhanced 911 system in place by January 1, 1991 are
16 exempt from the reporting requirements under this section.

17 REVISOR'S NOTE: This section formerly was Art. 41, § 18-104.

18 Former Art. 41, § 18-104 is not retained in the Code because the dates
19 have passed for submitting the plans for enhancement of the 911 system
20 for a county or multicounty area and the provision is obsolete. However, it
21 is transferred to the Session Laws for historical purposes.

22 The only changes are in style.

23 [18-108.] 2.

24 [(d)] (A) For those counties without an operational enhanced 911 system, the
25 Board shall adopt procedures to assure that:

26 (1) The moneys collected from the additional charge and distributed to
27 the counties are expended in the following proportions during each county's fiscal
28 year:

29 (i) For a 911 system in a county or a multicounty area with a
30 population of 100,000 persons or less, a maximum of 85 percent for personnel costs;
31 AND

32 (ii) For a 911 system in a county or multicounty area with a
33 population in excess of 100,000 persons, a maximum of 70 percent for personnel costs;
34 AND

1 they are apparently obsolete. These provisions specified the manner in
 2 which funds in the 911 Trust Fund as of July 1, 1983, were to be allocated
 3 and established limitations on disbursements from the 911 fee collected
 4 from July 1, 1980, through June 30, 1983. However, they are transferred to
 5 the Session Laws to avoid any inadvertent effect that their repeal might
 6 have.

7 The only changes are in style.

8 SECTION 11. AND BE IT FURTHER ENACTED, That Section(s) 6-401(i) and
 9 6-402(c)(2), (3), (4), and (5) of Article 83B - Department of Housing and Community
 10 Development of the Annotated Code of Maryland be repealed and reenacted, with
 11 amendments, and transferred to the Session Laws, to read as follows:

12 IMPLEMENTATION OF MARYLAND BUILDING PERFORMANCE STANDARDS

13 [6-401.] 1.

14 [(i)] (A) ["Standard building code"] IN THIS SECTION, "STANDARD BUILDING
 15 CODE" means the standard building code issued by the Southern Building Code
 16 Congress International, Inc.

17 [6-402.]

18 [(c) (2)] (B) In counties or municipalities that [have] HAD not adopted a
 19 building code as of October 1, 1992, the MARYLAND BUILDING PERFORMANCE
 20 Standards shall apply to all buildings and structures for which a building permit
 21 application [is] WAS received by the local jurisdiction on or after August 1, 1997.

22 [(3)] (C) In counties or municipalities that [have] HAD adopted the
 23 standard building code as of October 1, 1993, the MARYLAND BUILDING
 24 PERFORMANCE Standards shall apply to all buildings and structures for which a
 25 building permit application [is] WAS received by the local jurisdiction on or after
 26 August 1, 2001.

27 [(4)] (D) [(i)] (1) If the Department OF HOUSING AND COMMUNITY
 28 DEVELOPMENT [has] HAD not provided funding to a county or municipality to cover
 29 all direct and reasonable costs necessary for converting or establishing local systems
 30 to implement the MARYLAND BUILDING PERFORMANCE Standards, then the
 31 provisions of this [subsection] SECTION shall be void and without effect as to the
 32 particular county or municipality until the time that the needed funds [are] WERE
 33 made available by the Department OF HOUSING AND COMMUNITY DEVELOPMENT.

34 [(ii)] (2) [1.] (I) In this [paragraph] SUBSECTION, "costs" means
 35 expenses associated with hardware, software, training, technical assistance, or other
 36 direct expenses that a county or municipality incurs to implement the MARYLAND
 37 BUILDING PERFORMANCE Standards.

1 [2.] (II) In this [paragraph] SUBSECTION, "costs" does not
2 include expenses that a county or municipality would incur without implementation
3 of the MARYLAND BUILDING PERFORMANCE Standards.

4 [(5)] (E) A local jurisdiction may implement and enforce the Maryland
5 Building Performance Standards and any local amendment on or before the dates
6 specified in this [subsection] SECTION for application of the MARYLAND BUILDING
7 PERFORMANCE Standards.

8 REVISOR'S NOTE: This section formerly was Art. 83B, §§ 6-401(i) and
9 6-402(c)(2), (3), (4), and (5).

10 Former Art. 83B, §§ 6-401(i) and 6-402(c)(2), (3), (4), and (5) provided
11 effective dates in 1992 and 1993 for implementation of the Maryland
12 Building Performance Standards, required the Department of Housing and
13 Community Development to provide funding to implement the Standards,
14 and defined a relevant term. These provisions are obsolete because the
15 effective dates for implementation of the Standards have passed and the
16 Department confirms that all local jurisdictions have implemented the
17 Standards. These dates, however, have historical significance, e.g.,
18 providing information as to whether an existing building or structure was
19 subject to the Standards at the time of building permit application. The
20 provisions, therefore, are transferred to the Session Laws.

21 The only changes are in style.

22 SECTION 12. AND BE IT FURTHER ENACTED, That Section(s) 31, 32, 34,
23 34A, 34B, 35, 36, 36A, and 37, inclusive, and the subtitle "Pensions" of Article 88B -
24 Department of State Police of the Annotated Code of Maryland be repealed and
25 reenacted, with amendments, and transferred to the Session Laws, to read as follows:

26 Pensions - DEPARTMENT OF STATE POLICE

27 [31.] 1.

28 (a) Whenever any of the employees of the Department OF STATE POLICE, who
29 have elected not to become members of the State Police Retirement System of the
30 State of Maryland, and any of the license examiners of the Commissioner of Motor
31 Vehicles shall have given meritorious service as an employee for a period of fifteen
32 continuous years, and shall have reached the age of 55 years, excepting the physician
33 of the Department OF STATE POLICE who shall have reached the age of 65 years, the
34 employees shall be eligible for retirement forthwith upon his or her voluntary
35 application or may be retired by the Secretary OF STATE POLICE. These employees
36 shall retire forthwith upon reaching the age of 64, excepting the physician of the
37 Department OF STATE POLICE who shall be retired forthwith upon reaching the age of
38 70. In all retirements under the provisions of this section the employee in question
39 shall be paid during the remainder of his or her natural life a salary or pension,
40 payable monthly, equal to fifty percent (50%) of his or her annual remuneration, the
41 annual remuneration to be taken as of the year immediately preceding the granting of

1 his or her application for retirement; provided, however, that any employee who is
2 retired and is receiving retirement benefits under the provisions of this subtitle and
3 such benefits in the aggregate are less than \$200.00 per month, shall receive an
4 additional sum so that the amount received as benefit is in no event less than
5 \$200.00. Any employee who is retired and who is receiving retirement benefits under
6 the provisions of this section and is also receiving benefits from the federal Old Age
7 and Survivors Insurance System, when the benefits in the aggregate are less than
8 \$200.00 per month shall receive an additional sum equal to the difference. No money
9 payable under this subtitle shall, prior to issuance and delivery of the warrant or
10 voucher therefor, be capable of being assigned, charged or taken in execution or
11 attachment. All employees subject to the provisions of this subtitle shall contribute to
12 the pension fund, hereinafter provided for, a sum equal to the contribution which the
13 employees would have paid to the State Police Retirement System for all benefits
14 thereunder had they elected to become members thereof. The amount of the
15 contribution of each of the employees subject to the provisions of this subtitle shall be
16 fixed annually in advance by the board of trustees of the retirement and pension
17 system of the Maryland State Police and shall be deducted monthly from the
18 remuneration of the employees and paid in lieu thereof to the board to be placed by it
19 forthwith in the pension fund.

20 (b) For the purpose of determining the fifteen years of continuous meritorious
21 service rendered by any of the employees of said Department OF STATE POLICE,
22 transferred thereto from the Commissioner of Motor Vehicles, or by any of the license
23 examiners of the Commissioner of Motor Vehicles, the years of service shall include
24 those rendered to the Commissioner and/or to the Department as the case may be.

25 (c) Every police employee retired on pension under the provisions of [this
26 article] FORMER ARTICLE 88B OF THE CODE shall be paid a pension determined by
27 using his or her annual remuneration, and all contributions made by such police
28 employee to the pension fund of the Department OF STATE POLICE shall be made
29 from the annual remuneration. "Annual remuneration," as used in this [article]
30 SUBTITLE, shall mean salary plus the longevity pay herein provided for.

31 REVISOR'S NOTE: This section formerly was Art. 88B, § 31.

32 Former Art. 88B, § 31 related to retirement by employees of the
33 Department of State Police who elected not to become members of the
34 State Police Retirement System. This provision is not retained in the Code
35 because of its limited and diminishing applicability. However, it is
36 transferred to the Session Laws to avoid any inadvertent substantive effect
37 that its repeal might have.

38 The only changes are in style.

39 [32.] 2.

40 Any provision of law and particularly the provisions of subsection (3) of § 1 and
41 of § 3 of FORMER Article 73B OF THE CODE, as amended, to the contrary
42 notwithstanding,

1 (1) All civilian employees of the Department OF STATE POLICE and all
2 license examiners of the Commissioner of Motor Vehicles, who became employees of
3 said Department or of said Commissioner after October 1, 1941, and before June 1,
4 1943, shall, as of the later date, be removed from the pension fund of said Department
5 and within 60 days thereafter the Secretary OF STATE POLICE shall, out of the
6 moneys held by him in said pension fund, pay to each of the employees and license
7 examiners so removed the total amount of contributions theretofore made by him to
8 said fund, without interest;

9 (2) Any civilian employee of said Department and any license examiner
10 of said Commissioner, who became an employee of said Department or of said
11 Commissioner on or before October 1, 1941, may elect to remove himself from said
12 pension fund and may apply for and be admitted to membership in said Employees'
13 Retirement System as hereinafter provided; and within 60 days after said Secretary
14 shall receive written notice of election so to remove he shall, out of the moneys held by
15 him in said pension fund, pay to any employee or license examiner so electing to
16 remove the total amount of contribution theretofore made by him to said fund,
17 without interest;

18 (3) Any civilian employee or license examiner of the Commissioner of
19 Motor Vehicles who is removed or elects to remove himself from said pension fund
20 shall be entitled to membership in said Employees' Retirement System and may at
21 any time thereafter become a member thereof by filing with the board of trustees of
22 said system application on a form prescribed by said board. If any such application is
23 made before December 31, 1961, the applicant shall be admitted to membership in
24 said system with the same prior service credit, and shall be entitled to the same
25 retirement allowances and other benefits, as employees of the State of Maryland who
26 became members thereof as of October 1, 1941, and have remained such in good
27 standing since that date; provided, however, that any such applicant shall, before
28 being admitted into such membership, pay to said board of trustees a sum equivalent
29 to the total of all contributions made by him to the pension fund of said Department
30 of State Police between October 1, 1941, and the date of his removal or of his election
31 to remove from said fund. No such person applying for membership in said system on
32 or after December 31, 1961, shall be entitled to receive such prior service credit; AND

33 (4) No civilian employee of said Department or license examiner of said
34 Commissioner who becomes an employee of said Department or of said Commissioner
35 on or after June 1, 1943, shall be entitled to contribute to, or be eligible to become a
36 member of the pension fund of said Department, but shall become a member of, and
37 shall in every respect be subject to, said Employees' Retirement System.

38 REVISOR'S NOTE: This section formerly was Art. 88B, § 32.

39 Former Art. 88B, § 32 related to the election to be removed from the
40 pension fund of the Department of State Police by certain employees of the
41 Department who became employees of the Department before June 1,
42 1943. This provision is not retained in the Code because of its limited and
43 diminishing applicability. However, it is transferred to the Session Laws to
44 avoid any inadvertent substantive effect that its repeal might have.

1 %The only changes are in style.

2 [34.] 3.

3 If a member of the Department OF STATE POLICE becomes physically incapable
4 of performing his or her duties and the disability is the result of an accident or
5 injuries occurring in the course of duty or is the result of sickness, accident or disease
6 contracted in the course of duty and if the member has been in the Department OF
7 STATE POLICE for ten years or more, then he or she shall be entitled to the same
8 retirement pension as provided for in FORMER ARTICLE 88B, § 31 OF THE CODE, if the
9 member is found, after medical examination given by a medical board of three
10 physicians, consisting of the medical examiner of the Department OF STATE POLICE
11 and two other physicians to be selected by the board of trustees of the retirement and
12 pensions system of State Police and acceptable to the State Police employee
13 concerned, to be physically incapable of performing his or her duties.

14 If any member of the old retirement and pension system of the Department of
15 State Police dies before retirement, or after retirement from service on a pension,
16 there shall be paid to the surviving spouse, as long as he or she remains unmarried,
17 a pension equal to 25 percent of the deceased member's annual remuneration. If the
18 member does not leave a surviving spouse but there is or are a surviving child or
19 children, any or all of whom are under the age of 18 years, the pension shall be paid
20 to the surviving child or children who are under the age of 18 years, in equal amounts
21 to each. Any payments made to a surviving spouse under this section shall terminate
22 on either the death or remarriage of the surviving spouse. In either event if there is or
23 are a child or children of the deceased member, who are under the age of 18 years, the
24 payments under this section shall continue to the child or children in equal amounts.
25 Payments under this section to the surviving spouse of a member shall continue for
26 the duration of his or her natural life, unless he or she remarries. If the surviving
27 spouse has died or has remarried, as in this section specified, payments to any
28 surviving child shall terminate when he or she reaches the age of 18 years. If a
29 pension is paid under this section, it shall in no event be less than \$100 per month in
30 the aggregate. A surviving spouse, child, or children resulting from any marriage
31 contracted after the retirement of the member are not eligible for any payments
32 under the provisions of this subtitle. For the purposes of this section the
33 remuneration of a retired member shall be computed as it was in the year
34 immediately preceding the granting of the member's application for retirement. With
35 respect to a member who dies while in service the word "remuneration" shall be
36 computed as it was in the year immediately preceding the date of his or her death.

37 REVISOR'S NOTE: This section formerly was Art. 88B, § 34.

38 Former Art. 88B, § 34 related to disability retirement by employees of the
39 Department of State Police who elected not to become members of the
40 State Police Retirement System. This provision is not retained in the Code
41 because of its limited and diminishing applicability. However, it is
42 transferred to the Session Laws to avoid any inadvertent substantive effect
43 that its repeal might have.

1 %The only changes are in style.

2 [34A.] 4.

3 (a) For the fiscal year beginning July 1, 1971, and for each fiscal year
4 thereafter, each retired member's retirement allowance as hereunder defined,
5 exclusive of any additional voluntary annuity, shall be adjusted by a ratio as provided
6 in this section.

7 (b) (1) Each retired member shall have a base which shall be the consumer
8 price index for the calendar year ending December 31st of the fiscal year in which he
9 was last employed.

10 (2) The consumer price index to be used for the fiscal year in which the
11 retirement allowance is payable shall be the consumer price index for the calendar
12 year ending December 31st of the preceding fiscal year.

13 (3) The ratio of adjustment of the retirement allowance referred to in
14 subsection (a) of this section shall be obtained by dividing the consumer price index in
15 subsection (b)(2) OF THIS SECTION by the consumer price index in subsection (b)(1) of
16 this section.

17 (c) For the purposes of this section the retirement allowance referred to in
18 subsection (a) of this section, shall be that retirement allowance elected by the
19 member under FORMER ARTICLE 88B, § 31 of [this article] THE CODE, exclusive of
20 any additional voluntary annuity.

21 (d) For the purposes of this section, consumer price index shall mean the
22 consumer price index (all items -- United States city average), as published by the
23 United States Department of Labor, Bureau of Labor Statistics.

24 (e) In no instance shall any retired member receive less than the benefits to
25 which he would be entitled under the provisions of FORMER ARTICLE 88B, § 31 of [this
26 article] THE CODE provided further that any member retired prior to July 1, 1973,
27 shall, in no instance, receive less benefits than he had received prior to such date. Any
28 member who retired prior to July 1, 1958 with thirty (30) or more years of service
29 shall not receive benefits in any amount less than \$5,000 per annum.

30 (f) The allowance of a surviving beneficiary of a retired member shall, when
31 and if payable, be adjusted by the same ratio as provided in this section.

32 REVISOR'S NOTE: This section formerly was Art. 88B, § 34A.

33 Former Art. 88B, § 34A related to the calculation of the retirement
34 allowance for retired members of the pension system. This provision is not
35 retained in the Code because of its limited and diminishing applicability.
36 However, it is transferred to the Session Laws to avoid any inadvertent
37 substantive effect that its repeal might have.

38 The only changes are in style.

1 [34B.] 5.

2 Any person who, on July 1, 1973, is receiving a pension under the provisions of
3 [§§ 31 or 34 of this article] FORMER ARTICLE 88B, § 31 OR § 34 OF THE CODE shall
4 receive an additional amount equal to 11 percent of the pension he or she received as
5 of June 30, 1973. For the purpose of this section, the pension upon which the
6 additional amount is calculated does not include the adjustment of retirement
7 allowance made under FORMER ARTICLE 88B, § 34A OF THE CODE.

8 REVISOR'S NOTE: This section formerly was Art. 88B, § 34B.

9 Former Art. 88B, § 34B related to an additional amount for persons
10 receiving a pension on July 1, 1973. This provision is not retained in the
11 Code because of its limited and diminishing applicability. However, it is
12 transferred to the Session Laws to avoid any inadvertent substantive effect
13 that its repeal might have.

14 The only changes are in style.

15 [35.] 6.

16 The administration of the retirement and pension system, established by this
17 subtitle, is hereby vested in the Secretary OF STATE POLICE, who shall keep separate
18 records and accounts and report his receipts and disbursements hereunder in the
19 same manner as is provided in [this article] THE PUBLIC SAFETY ARTICLE for other
20 receipts and disbursements of his Department. The Secretary OF STATE POLICE shall
21 receive no additional compensation for these duties, but shall be reimbursed for all
22 necessary expenses which he may sustain through his service in administering this
23 subtitle; and all claims for reimbursement shall be subject to the approval of the
24 Legislative Auditor. And there shall be no additional paid employees engaged for the
25 administration of this subtitle. The Secretary OF STATE POLICE shall have the power
26 and authority to make all reasonable rules and regulations for the administration of
27 the retirement and pension system; and shall have the power and authority to hold
28 and invest all funds accruing to the pension fund for the benefit of the said fund;
29 provided, however, that no investment or reinvestment of said fund shall be made
30 without the advice and approval of a board consisting of the Commissioner of
31 Financial Regulation and two persons to be appointed by the Secretary OF STATE
32 POLICE who shall be officers of a bank or trust company located and doing business in
33 Maryland. The chief actuary of the State Insurance Commissioner's office shall be the
34 technical adviser of the Secretary OF STATE POLICE, in the administration of this
35 fund, on all actuarial questions. The Secretary OF STATE POLICE shall be authorized
36 to set aside annually an amount sufficient to defray the annual cost of the pension
37 together with at least \$1,000 toward the necessary reserve, plus interest at the rate of
38 4% per annum upon that portion of the pension fund reserve remaining unpaid. This
39 reserve shall be that amount necessary to cover the accrued liability existing at the
40 time of the establishment of the pension fund, by reason of the service rendered by the
41 present members of the Department OF STATE POLICE, prior to such date of
42 establishment. This pension fund reserve shall be that amount shown to be necessary
43 for the proper operation of the system, by accepted actuarial standards. The Secretary

1 shall also retain biennially all unexpended funds in the budget item of the
2 Department OF STATE POLICE, designated therein compensation insurance and
3 pension fund, for the purpose of establishing the above mentioned reserve, until such
4 reserve is complete. Every person who knowingly and wilfully in anywise procures the
5 making or presentation of any false or fraudulent affidavit or affirmation concerning
6 any claim for a share of payment thereof shall in every case forfeit a sum not
7 exceeding \$200 to be sued for and recovered by and in the name of the Secretary; and
8 when recovered to be paid over to, and thereupon becoming a part of the fund here
9 provided. Any person who shall wilfully swear falsely in any oath or affirmation in
10 obtaining or procuring any share or payment thereof under the provisions of this
11 subtitle shall be guilty of perjury.

12 REVISOR'S NOTE: This section formerly was Art. 88B, § 35.

13 Former Art. 88B, § 35 related to the administration of the pension fund by
14 the Secretary of State Police. This provision is not retained in the Code
15 because of its limited and diminishing applicability. However, it is
16 transferred to the Session Laws to avoid any inadvertent substantive effect
17 that its repeal might have.

18 The only changes are in style.

19 [36.] 7.

20 It shall be the duty of the Secretary OF STATE POLICE biennially, to submit to
21 the Governor of the State a full report on the state and condition of the system; this
22 report shall include a full record of all persons retired under this subtitle, the rate of
23 pay respectively given them, and also an estimate of the sum required for future
24 requirements in accordance with the provisions of this subtitle until the next budget
25 appropriation becomes effective. And it is further provided that the Governor of the
26 State may upon receipt of the report from the Secretary OF STATE POLICE recommend
27 such future increases in the appropriation as he may deem necessary for the proper
28 administration of this subtitle.

29 REVISOR'S NOTE: This section formerly was Art. 88B, § 36.

30 Former Art. 88B, § 36 related to reports by the Secretary of State Police on
31 the condition of the pension system. This provision is not retained in the
32 Code because of its limited and diminishing applicability. However, it is
33 transferred to the Session Laws to avoid any inadvertent substantive effect
34 that its repeal might have.

35 The only changes are in style.

36 [36A.] 8.

37 At his discretion, the Legislative Auditor may conduct an annual audit of a fiscal
38 and compliance nature of the accounts and transactions of the State Police
39 Retirement System in place of conducting these audits on a biennial basis. Officials of

1 the State Police Retirement System shall be advised whether annual or biennial
2 audits will be conducted.

3 REVISOR'S NOTE: This section formerly was Art. 88B, § 36A.

4 Former Art. 88B, § 36A related to audits by the Legislative Auditor of the
5 accounts and transactions of the State Police Retirement System. This
6 provision is duplicative of SP § 21-127. However, it is transferred to the
7 Session Laws to avoid any inadvertent substantive effect that its repeal
8 might have.

9 No changes are made.

10 [37.] 9.

11 (a) There is hereby created a board of trustees of the retirement and pension
12 system of the State Police, which shall be part of the Department of Budget and
13 Management. Said board shall consist of six trustees, as follows: the State Secretary
14 of Budget and Management, the State Comptroller, the State Treasurer, the Secretary
15 of the State Police and two members of the Department of State Police to be appointed
16 by the Board of Public Works. Said board shall be organized immediately after three
17 of such trustees have qualified and taken the oath of office. The Secretary of Budget
18 and Management shall be responsible for such administrative functions as had
19 previously been performed by the Director of retirement systems to carry out the
20 duties and business of the board of trustees; however, the Secretary of Budget and
21 Management is authorized to delegate to the Executive Director of the State
22 Retirement Agency such of these administrative functions as the Secretary deems
23 appropriate.

24 (b) On and after June 1, 1947, or as soon thereafter as the said board of
25 trustees is organized, the functions, duties and obligations of the Secretary of the
26 State Police with respect to the administration of the retirement and pension system,
27 established by this subtitle, are hereby transferred and vested in the said board of
28 trustees.

29 (c) Whenever the term Secretary OF STATE POLICE is used in this subtitle
30 with respect to the administration of the said retirement and pension system or with
31 respect to contributions thereto, such term shall be taken to mean the said board of
32 trustees.

33 REVISOR'S NOTE: This section formerly was Art. 88B, § 37.

34 Former Art. 88B, § 37 related to the establishment of a board of trustees of
35 the retirement and pension system of the State Police. This provision is not
36 retained in the Code because of its limited and diminishing applicability.
37 However, it is transferred to the Session Laws to avoid any inadvertent
38 substantive effect that its repeal might have.

39 The only changes are in style.

1 SECTION 13. AND BE IT FURTHER ENACTED, That the following article
2 designations of the Annotated Code of Maryland be repealed:

3 The article designation "Article 16A - Maryland Emergency Management
4 Agency"

5 The article designation "Article 38A - Fires and Investigations"

6 The article designation "Article 88B - Department of State Police"

7 The article designation "Article 89 - Miscellaneous Business, Work, and Safety
8 Provisions"

9 SECTION 14. AND BE IT FURTHER ENACTED, That it is the intention of the
10 General Assembly that, except as expressly provided in this Act, this Act shall be
11 construed as a nonsubstantive revision, and may not otherwise be construed to render
12 any substantive change in the law of the State.

13 SECTION 15. AND BE IT FURTHER ENACTED, That the catchlines, captions,
14 Revisor's Notes, Special Revisor's Notes, and General Revisor's Notes contained in
15 this Act are not law and may not be considered to have been enacted as a part of this
16 Act.

17 SECTION 16. AND BE IT FURTHER ENACTED, That nothing in this Act
18 affects the term of office of an appointed or elected member of any commission, office,
19 department, agency, or other unit. An individual who is a member of a unit on the
20 effective date of this Act shall remain a member for the balance of the term to which
21 appointed or elected, unless the member sooner dies, resigns, or is removed under
22 provisions of law.

23 SECTION 17. AND BE IT FURTHER ENACTED, That, except as expressly
24 provided to the contrary in this Act, any transaction or employment status affected by
25 or flowing from any change of nomenclature or any statute amended, repealed, or
26 transferred by this Act and validly entered into or existing before the effective date of
27 this Act and every right, duty, or interest flowing from a statute amended, repealed,
28 or transferred by this Act remains valid after the effective date of this Act and may be
29 terminated, completed, consummated, or enforced as required or allowed by any
30 statute amended, repealed, or transferred by this Act as though the repeal,
31 amendment, or transfer had not occurred. If a change in nomenclature involves a
32 change in name or designation of any State unit, the successor unit shall be
33 considered in all respects as having the powers and obligations granted the former
34 unit.

35 SECTION 18. AND BE IT FURTHER ENACTED, That the continuity of every
36 commission, office, department, agency, or other unit is retained. The personnel,
37 records, files, furniture, fixtures, and other properties and all appropriations, credits,
38 assets, liabilities, and obligations of each retained unit are continued as the
39 personnel, records, files, furniture, fixtures, properties, appropriations, credits,
40 assets, liabilities, and obligations of the unit under the laws enacted by this Act.

1 SECTION 19. AND BE IT FURTHER ENACTED, That, except as expressly
2 provided to the contrary in this Act, any person licensed, registered, certified, or
3 issued a permit or certificate by any commission, office, department, agency, or other
4 unit established or continued by any statute amended, repealed, or transferred by
5 this Act is considered for all purposes to be licensed, registered, certified, or issued a
6 permit or certificate by the appropriate unit continued under this Act for the duration
7 of the term for which the license, registration, certification, or permit was issued, and
8 may renew that authorization in accordance with the appropriate renewal provisions
9 of this Act.

10 SECTION 20. AND BE IT FURTHER ENACTED, That this Act does not
11 rescind, supersede, change, or modify any rule adopted by the Court of Appeals that is
12 or was in effect on the effective date of this Act concerning the practice and procedure
13 in and the administration of the appellate courts and the other courts of this State.

14 SECTION 21. AND BE IT FURTHER ENACTED, That the publisher of the
15 Annotated Code of Maryland, in consultation with and subject to the approval of the
16 Department of Legislative Services, shall correct, with no further action required by
17 the General Assembly, cross-references and terminology rendered incorrect by this
18 Act or by any other Act of the General Assembly of 2003 that affects provisions
19 enacted by this Act. The publisher shall adequately describe any such correction in an
20 editor's note following the section affected.

21 SECTION 22. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2003.