
By: **Delegate McIntosh**

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Committee Report: Favorable

House action: Adopted

Read second time: March 23, 2005

CHAPTER _____

1 AN ACT concerning

2 **Reorganization of State Government - Historical and Cultural Programs**

3 FOR the purpose of reorganizing State government by transferring and reassigning
 4 the duties, responsibilities, authority, and functions of the Commission on
 5 Indian Affairs from the Department of Housing and Community Development to
 6 the Department of Human Resources; transferring and reassigning the duties,
 7 responsibilities, authority, and functions of certain units and programs in the
 8 Department of Housing and Community Development to the Department of
 9 Planning, including the Division of Historical and Cultural Programs, the
 10 Commission on African American History and Culture, and the Maryland
 11 Historical Trust; specifying that the Maryland Heritage Areas Authority
 12 operates as an independent unit in the Department of Planning; specifying that
 13 the Secretary of Planning serves as chair of the Maryland Heritage Areas
 14 Authority; requiring that the Maryland Historical Trust dedicate administrative
 15 staff for the Heritage Areas Authority; specifying that certain personnel actions
 16 by units within the jurisdiction of the Department of Planning are subject to the
 17 approval of the Secretary of Planning; authorizing the Secretary of Planning to
 18 take certain action regarding certain regulations and to call certain meetings;
 19 repealing the Lighthouse Preservation Special Fund and providing for any
 20 outstanding balance in the Fund; specifying that the Secretary of Planning
 21 serve as chair of the Maryland Advisory Council on Historic Preservation;
 22 providing for the continuity of certain units and the terms of certain officials;
 23 providing for the continuity of the status of certain transactions, employees,
 24 rights, duties, titles, interests, and other real and personal property; providing
 25 for certain unexpended appropriations; altering a division designation;
 26 providing for certain corrections in cross-references and terminology; adding
 27 and altering certain definitions; and generally relating to the Department of

1 Housing and Community Development, the Department of Planning, and the
2 Department of Human Resources.

3 BY transferring

4 Article - Housing and Community Development
5 Section 5-301 through 5-312, respectively, and the subtitle "Subtitle 3.
6 Commission on Indian Affairs"
7 Annotated Code of Maryland
8 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
9 2005)

10 to be

11 Article 41 - Governor - Executive and Administrative Departments
12 Section 6-901 through 6-912, respectively, and the subtitle "Subtitle 9.
13 Commission on Indian Affairs"
14 Annotated Code of Maryland
15 (2003 Replacement Volume and 2004 Supplement)

16 BY transferring

17 Article - Housing and Community Development
18 Section 5-101 and 5-102, respectively, and the subtitle "Subtitle 1.
19 Established"; 5-201 through 5-208, respectively, and the subtitle "Subtitle
20 2. Commission on African American History and Culture"; 5-401 through
21 5-408, respectively, and the subtitle "Subtitle 4. Maryland Historical
22 Trust" and the part "Part I. General Provisions"; 5-409 through 5-421,
23 respectively, and the part "Part II. Establishment and Organization";
24 5-422 through 5-432, respectively, and the part "Part III. Historic Funds
25 and Capital Projects"; 5-433 through 5-448, respectively, and the part
26 "Part IV. Archaeological Property"; 5-449 through 5-459, respectively, and
27 the part "Part V. Historical and Cultural Museum Assistance Program";
28 and the title "Title 5. Division of Historical and Cultural Programs"
29 Annotated Code of Maryland
30 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
31 2005)

32 to be

33 Article - State Finance and Procurement
34 Section 5A-101 and 5A-102, respectively, and the subtitle "Subtitle 1.
35 Established"; 5A-201 through 5A-208, respectively, and the subtitle
36 "Subtitle 2. Commission on African American History and Culture";
37 5A-301 through 5A-308, respectively, and the subtitle "Subtitle 3.
38 Maryland Historical Trust" and the part "Part I. General Provisions";
39 5A-309 through 5A-321, respectively, and the part "Part II. Establishment
40 and Organization"; 5A-322 through 5A-332, respectively, and the part
41 "Part III. Historic Funds and Capital Projects"; 5A-333 through 5A-348,
42 respectively, and the part "Part IV. Archaeological Property"; 5A-349
43 through 5A-359, respectively, and the part "Part V. Historical and Cultural

1 Museum Assistance Program"; and the title "Title 5A. Division of
2 Historical and Cultural Programs"
3 Annotated Code of Maryland
4 (2001 Replacement Volume and 2004 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article 28 - Maryland-National Capital Park and Planning Commission
7 Section 7-108(e)
8 Annotated Code of Maryland
9 (2003 Replacement Volume and 2004 Supplement)

10 BY adding to
11 Article 41 - Governor - Executive and Administrative Departments
12 Section 6-901(e)
13 Annotated Code of Maryland
14 (2003 Replacement Volume and 2004 Supplement)
15 (As enacted by Section 1 of this Act)

16 BY repealing and reenacting, with amendments,
17 Article 41 - Governor - Executive and Administrative Departments
18 Section 6-902, 6-906(c), and 6-911(a)(1)
19 Annotated Code of Maryland
20 (2003 Replacement Volume and 2004 Supplement)
21 (As enacted by Section 1 of this Act)

22 BY repealing and reenacting, with amendments,
23 Article 78A - Public Works
24 Section 14B(b)
25 Annotated Code of Maryland
26 (2003 Replacement Volume and 2004 Supplement)
27 (As enacted by Chapter ____ (H.B. 237) of the Acts of the General Assembly of
28 2005)

29 BY repealing and reenacting, with amendments,
30 Article - Environment
31 Section 14-108(a)(2)(v)
32 Annotated Code of Maryland
33 (1996 Replacement Volume and 2004 Supplement)
34 (As enacted by Chapter ____ (H.B. 237) of the Acts of the General Assembly of
35 2005)

36 BY repealing and reenacting, with amendments,
37 Article - Financial Institutions

1 Section 13-1029(a)(2)(ii) and (b)(2), 13-1110(c)(2), and 13-1112(b)(3)
2 Annotated Code of Maryland
3 (2003 Replacement Volume and 2004 Supplement)
4 (As enacted by Chapter ____ (H.B. 237) of the Acts of the General Assembly of
5 2005)

6 BY repealing and reenacting, with amendments,
7 Article - Financial Institutions
8 Section 13-1103(b), 13-1104, 13-1106(a), 13-1110(d)(3), and 13-1112(a)(1)
9 Annotated Code of Maryland
10 (2003 Replacement Volume and 2004 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article - Health - General
13 Section 4-215(e)(4)(i)
14 Annotated Code of Maryland
15 (2000 Replacement Volume and 2004 Supplement)
16 (As enacted by Chapter ____ (H.B. 237) of the Acts of the General Assembly of
17 2005)

18 BY repealing and reenacting, with amendments,
19 Article - Housing and Community Development
20 Section 2-201 to be under the amended division "Division I. Housing and
21 Community Programs"
22 Annotated Code of Maryland
23 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
24 2005)

25 BY repealing and reenacting, with amendments,
26 Article - Insurance
27 Section 6-105.2 and 6-107(c)
28 Annotated Code of Maryland
29 (2003 Replacement Volume and 2004 Supplement)
30 (As enacted by Chapter ____ (H.B. 237) of the Acts of the General Assembly of
31 2005)

32 BY repealing and reenacting, without amendments,
33 Article - State Finance and Procurement
34 Section 5-101
35 Annotated Code of Maryland
36 (2001 Replacement Volume and 2004 Supplement)

37 BY repealing and reenacting, with amendments,
38 Article - State Finance and Procurement

1 Section 5-202(d) and 5-203
2 Annotated Code of Maryland
3 (2001 Replacement Volume and 2004 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article - State Finance and Procurement
6 Section 5A-101, 5A-102, 5A-206(c), 5A-208(b), 5A-301(e), 5A-303(d)(2)(i) and
7 (3)(v), 5A-304(b)(1), 5A-313(c)(3), 5A-315(b)(2), 5A-318(d), 5A-324(c),
8 5A-325(a)(2), 5A-327(e)(1), (i)(2)(ii), and (l)(2), 5A-328(e)(2)(i), (g)(1), (h)
9 (1), and (k)(2), 5A-329(e)(1), 5A-333(b), 5A-334(c)(1), 5A-335(c)(3),
10 5A-338, 5A-340(b) and (c)(1), 5A-341(c)(1), (f)(1), and (g)(2)(iii), 5A-342(f),
11 5A-343(b) and (f), 5A-346, 5A-353(b), and 5A-357
12 Annotated Code of Maryland
13 (2001 Replacement Volume and 2004 Supplement)
14 (As enacted by Section 2 of this Act)

15 BY repealing and reenacting, without amendments,
16 Article - State Finance and Procurement
17 Section 5A-324(a) and 5A-329(a)
18 Annotated Code of Maryland
19 (2001 Replacement Volume and 2004 Supplement)
20 (As enacted by Section 2 of this Act)

21 BY repealing
22 Article - State Finance and Procurement
23 Section 5A-330
24 Annotated Code of Maryland
25 (2001 Replacement Volume and 2004 Supplement)
26 (As enacted by Section 2 of this Act)

27 BY repealing and reenacting, with amendments,
28 Article - State Government
29 Section 10-618(g)(1)
30 Annotated Code of Maryland
31 (2004 Replacement Volume)
32 (As enacted by Chapter ____ (H.B. 237) of the Acts of the General Assembly of
33 2005)

34 BY repealing and reenacting, with amendments,
35 Article - Tax - General
36 Section 10-704.5(a) and (b)(2)
37 Annotated Code of Maryland
38 (2004 Replacement Volume)

1 (As enacted by Chapter ____ (H.B. 237) of the Acts of the General Assembly of
2 2005)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That Section(s) 5-301 through 5-312, respectively, and the subtitle
5 "Subtitle 3. Commission on Indian Affairs" of Article - Housing and Community
6 Development of the Annotated Code of Maryland (as enacted by Chapter ____ (H.B.
7 11) of the Acts of the General Assembly of 2005) be transferred to be Section(s) 6-901
8 through 6-912, respectively, and the subtitle "Subtitle 9. Commission on Indian
9 Affairs" of Article 41 - Governor - Executive and Administrative Departments of the
10 Annotated Code of Maryland.

11 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 5-101 and
12 5-102, respectively, and the subtitle "Subtitle 1. Established"; 5-201 through 5-208,
13 respectively, and the subtitle "Subtitle 2. Commission on African American History
14 and Culture"; 5-401 through 5-408, respectively, and the subtitle "Subtitle 4.
15 Maryland Historical Trust" and the part "Part I. General Provisions"; 5-409 through
16 5-421, respectively, and the part "Part II. Establishment and Organization"; 5-422
17 through 5-432, respectively, and the part "Part III. Historic Funds and Capital
18 Projects"; 5-433 through 5-448, respectively, and the part "Part IV. Archaeological
19 Property"; 5-449 through 5-459, respectively, and the part "Part V. Historical and
20 Cultural Museum Assistance Program"; and the title "Title 5. Division of Historical
21 and Cultural Programs" of Article - Housing and Community Development of the
22 Annotated Code of Maryland (as enacted by Chapter ____ (H.B. 11) of the Acts of the
23 General Assembly of 2005) be transferred to be Section(s) 5A-101 and 5A-102,
24 respectively, and the subtitle "Subtitle 1. Established"; 5A-201 through 5A-208,
25 respectively, and the subtitle "Subtitle 2. Commission on African American History
26 and Culture"; 5A-301 through 5A-308, respectively, and the subtitle "Subtitle 3.
27 Maryland Historical Trust" and the part "Part I. General Provisions"; 5A-309 through
28 5A-321, respectively, and the part "Part II. Establishment and Organization"; 5A-322
29 through 5A-332, respectively, and the part "Part III. Historic Funds and Capital
30 Projects"; 5A-333 through 5A-348, respectively, and the part "Part IV. Archaeological
31 Property"; 5A-349 through 5A-359, respectively, and the part "Part V. Historical and
32 Cultural Museum Assistance Program"; and the title "Title 5A. Division of Historical
33 and Cultural Programs" of Article - State Finance and Procurement of the Annotated
34 Code of Maryland.

35 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
36 read as follows:

37 **Article 28 - Maryland-National Capital Park and Planning Commission**

38 7-108.

39 (e) The Commission may make and adopt and, from time to time, amend a
40 plan which shall identify and designate sites, structures with their appurtenances
41 and environmental settings, or districts having a historical, archeological,
42 architectural or cultural value, provided that the criteria for the designation or
43 identification is not inconsistent with the criteria applicable to the Maryland

1 Historical Trust under [§ 5-423 of the Housing and Community Development
2 Article] § 5A-323 OF THE STATE FINANCE AND PROCUREMENT ARTICLE. In making or
3 amending of the plan, the Commission may establish advisory committees to assist it
4 in the performance of its duties. The plan shall constitute an amendment to the
5 general plan for the Maryland-Washington Regional District except that the plan
6 may include sites, structures with their appurtenances and environmental settings,
7 or districts located in municipalities within Montgomery and Prince George's
8 counties, not subject to the jurisdiction of the Commission, with the consent of the
9 governing body of that municipality. Consent of the governing body shall constitute
10 the agreement of the municipality to be bound by all rules and regulations governing
11 such sites, structures with their appurtenances and environmental settings, or
12 districts as may be enacted by the district council.

13 **Article 41 - Governor - Executive and Administrative Departments**

14 6-901.

15 (E) "SECRETARY" MEANS THE SECRETARY OF HUMAN RESOURCES.

16 6-902.

17 There is a Commission on Indian Affairs IN THE DEPARTMENT OF HUMAN
18 RESOURCES.

19 6-906.

20 (c) Subject to the rules and policies of the Commission and the administrative
21 supervision of the Secretary in accordance with [Title 2 of this article] THIS TITLE,
22 the administrator shall:

23 (1) Administer the activities of the Commission; and

24 (2) Supervise the appointment and removal of personnel whom the
25 Commission employs.

26 6-911.

27 (a) (1) In accordance with Title 10, Subtitle 1 of the State Government
28 Article, the Commission shall adopt regulations to carry out [§§ 5-309 and 5-310] §§
29 6-909 AND 6-910 of this subtitle.

30 **Article 78A - Public Works**

31 14B.

32 (b) Pursuant to the provisions of [§ 5-418 of the Housing and Community
33 Development Article] § 5A-318 OF THE STATE FINANCE AND PROCUREMENT ARTICLE,
34 the Board of Public Works may select the Maryland Historical Trust as the agency
35 designated to control and administer the property and premises thus acquired, and
36 for these purposes title to or other interest in the property and premises may be

1 transferred to the Maryland Historical Trust, or the Board of Public Works may
2 transfer title to or other interest in the property and premises to an appropriate
3 governmental agency or a private agency or corporation, subject to covenants and
4 conditions for proper maintenance and control of the property and premises and for
5 its reversion and return to the Board of Public Works if these covenants and
6 conditions are not performed.

7

Article - Environment

8 14-108.

9 (a) The Department shall deny the permit if the Department determines that:

10 (2) The proposed drilling or well operation poses a substantial threat to
11 public safety or a risk of significant adverse environmental impact to, but not limited
12 to, the following:

13 (v) Historic properties under [§ 5-426 of the Housing and
14 Community Development Article] § 5A-326 OF THE STATE FINANCE AND
15 PROCUREMENT ARTICLE;

16

Article - Financial Institutions

17 13-1029.

18 (a) Any unit of the State government that conducts or supports activities
19 affecting the Heritage Area shall:

20 (2) Conduct or support the activities of the unit in a manner that:

21 (ii) As determined under [§§ 5-425 and 5-426 of the Housing and
22 Community Development Article] §§ 5A-325 AND 5A-326 OF THE STATE FINANCE AND
23 PROCUREMENT ARTICLE, does not have an adverse effect on the historic resources of
24 the Heritage Area.

25 (b) A unit of the State government may not issue any license or permit to any
26 person to conduct any activity within the Heritage Area unless the unit determines
27 that the proposed activity:

28 (2) As determined under [§§ 5-425 and 5-426 of the Housing and
29 Community Development Article] §§ 5A-325 AND 5A-326 OF THE STATE FINANCE AND
30 PROCUREMENT ARTICLE, does not have an adverse effect on the historic resources of
31 the Heritage Area.

32 13-1103.

33 (b) The Authority is an independent unit of government in the Executive
34 Branch of government that operates in the Department of [Housing and Community
35 Development] PLANNING.

1 13-1104.

2 (a) The Authority consists of:

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

5 (2) The Secretary of Business and Economic Development;

6 (3) The Secretary of Higher Education;

7 (4) The Secretary of Transportation;

8 (5) The Secretary of Natural Resources;

9 (6) The Secretary of the Department of Planning;

10 (7) The State Historic Preservation Officer; and

11 (8) Ten members appointed by the Governor with the advice and consent
12 of the Senate:

13 (i) Two of whom shall be elected officials or representatives of local
14 jurisdictions;

15 (ii) Two of whom shall be appointed from names recommended by
16 the President of the Maryland Senate;

17 (iii) Two of whom shall be appointed from names recommended by
18 the Speaker of the House of Delegates;

19 (iv) One of whom is a public member of the Maryland Greenways
20 Commission;

21 (v) One of whom is a public member of the Maryland Tourism
22 Development Board;

23 (vi) One of whom is a member of the public who has significant
24 education or experience in historic preservation; and

25 (vii) One of whom is a member of the public who has significant
26 education or experience in heritage tourism.

27 (b) Of the elected officials or representatives from local jurisdictions, the
28 Governor shall appoint:

29 (1) One elected official or representative from a list submitted by the
30 Maryland Association of Counties; and

31 (2) One elected official or representative from a list submitted by the
32 Maryland Municipal League.

1 (c) The members appointed to the Authority shall represent the gender, racial,
2 and geographic makeup of the State.

3 (d) A member of the Authority may not also be a member of the board of
4 directors or any other type of governing or oversight body of an organization
5 qualifying for State funds as a recognized or certified heritage area.

6 (e) A cabinet member of the Authority may designate a representative to act
7 in the absence of the cabinet member.

8 (f) (1) Except for State officials, the term of a member of the Authority is 4
9 years.

10 (2) The terms of members appointed by the Governor are staggered as
11 required by the terms provided for members on October 1, 1996.

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

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

16 (5) At the end of the term of a member or on the resignation or removal
17 of a member, the Governor shall appoint a member to the Authority with the advice
18 and consent of the Senate.

19 (g) THE SECRETARY OF PLANNING SHALL SERVE AS CHAIR OF THE
20 AUTHORITY.

21 (H) The Governor may remove a member that a Governor appointed for
22 incompetence, misconduct, or failure to perform the duties of the position.

23 13-1106.

24 (a) In accordance with the State budget, the [Division of Historical and
25 Cultural Programs within the Department of Housing and Community Development]
26 MARYLAND HISTORICAL TRUST shall dedicate administrative staff for the Authority.

27 13-1110.

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

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

31 (i) Historic districts either listed in, or determined to be eligible for
32 listing in, the Maryland Register of Historic Properties in accordance with [§ 5-423 of
33 the Housing and Community Development Article] § 5A-323 OF THE STATE FINANCE
34 AND PROCUREMENT ARTICLE; or

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

3 (d) (3) Boundary maps for each recognized heritage area shall be kept on file
4 at the [Department of Housing and Community Development] AUTHORITY and at
5 the office of the county clerk where the recognized heritage area is located.

6 13-1112.

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

13 (i) SECRETARY OF PLANNING REGARDING LOCAL GOVERNMENT
14 ADOPTION OF HERITAGE AREA MANAGEMENT PLANS AND REGARDING HISTORIC
15 PRESERVATION AND MUSEUM PROGRAMS;

16 (II) Secretary of Housing and Community Development regarding
17 housing[,] AND neighborhood revitalization[, historic preservation, and museum
18 programs];

19 [(ii)] (III) Secretary of Business and Economic Development
20 regarding the State tourism program and economic development and job creation
21 activities;

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

24 [(iv)] (V) Secretary of Higher Education regarding educational
25 resources and their interpretation;

26 [(v)] (VI) Secretary of Transportation regarding access to and
27 transportation within certified heritage areas, including the scenic byways program
28 and programs for special signage; and

29 [(vi)] (VII) Secretary of General Services regarding the management
30 and disposition of State property.

31 (b) Units of State government that conduct or support activities affecting a
32 certified heritage area shall:

33 (3) When conducting a review of activities under [§§ 5-425 and 5-426 of
34 the Housing and Community Development Article] §§ 5A-325 AND 5A-326 OF THE
35 STATE FINANCE AND PROCUREMENT ARTICLE, assure that the activities will not
36 have an adverse effect on the historic and cultural resources of the certified heritage
37 area, unless there is no prudent and feasible alternative.

1

Article - Health - General

2 4-215.

3 (e) (4) Except as provided in paragraph (5) of this subsection, the
4 Department may not disclose or allow public inspection of information in a permit
5 record about the location of the site of a disinterment or reinterment if a local burial
6 sites advisory board or the Director of the Maryland Historical Trust determines that:

7 (i) The site is historic property, as defined in [§ 5-401 of the
8 Housing and Community Development Article] § 5A-301 OF THE STATE FINANCE AND
9 PROCUREMENT ARTICLE; and

10

Article - Housing and Community Development

11 Division I. Housing [,] AND Community [, and Heritage] Programs.

12 2-201.

13 The Department consists of:

- 14 (1) The Division of Credit Assurance;
- 15 (2) The Division of Development Finance;
- 16 (3) [The Division of Historical and Cultural Programs;
- 17 (4)] The Division of Neighborhood Revitalization;
- 18 [(5)] (4) The Community Development Administration;
- 19 [(6)] The Commission on African American History and Culture;
- 20 (7) The Commission on Indian Affairs;]
- 21 [(8)] (5) The Community Legacy Program;
- 22 [(9)] (6) The Community Legacy Board;
- 23 [(10)] (7) The Advisory Committee to the Community Legacy Board;
- 24 [(11)] (8) The Housing Finance Review Committee;
- 25 [(12)] (9) The Lead Hazard Advisory Committee;
- 26 [(13)] The Lighthouse Preservation Special Fund;]
- 27 [(14)] (10) The Maryland Housing Fund;
- 28 [(15)] The Maryland Historical Trust;]

1 [(16)] (11) The Neighborhood Business Development Program; and

2 [(17)] (12) Any other governmental unit that under law is a part of the
3 Department.

4 **Article - Insurance**

5 6-105.2.

6 A person subject to the tax imposed under this subtitle may claim a credit
7 against the tax for a certified rehabilitation as provided under [§ 5-403 of the
8 Housing and Community Development Article] § 5A-303 OF THE STATE FINANCE AND
9 PROCUREMENT ARTICLE.

10 6-107.

11 (c) A person that is not otherwise required to file a report with the
12 Commissioner under this section shall file a report and pay the tax due if the person:

13 (1) claimed a credit for a previous year against the tax imposed under
14 this subtitle for a certified rehabilitation as provided under [§ 5-403 of the Housing
15 and Community Development Article] § 5A-303 OF THE STATE FINANCE AND
16 PROCUREMENT ARTICLE; and

17 (2) is subject to the recapture of the credit as provided under [§ 5-403 of
18 the Housing and Community Development Article] § 5A-303 OF THE STATE FINANCE
19 AND PROCUREMENT ARTICLE.

20 **Article - State Finance and Procurement**

21 5-101.

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

23 (b) "Department" means the Department of Planning.

24 (c) "Secretary" means the Secretary of Planning.

25 5-202.

26 (d) (1) The Secretary may review any personnel action taken by any unit in
27 the Department.

28 (2) THE APPOINTMENT OR REMOVAL OF PERSONNEL BY A BOARD,
29 DIVISION, OR OTHER AGENCY WITHIN THE JURISDICTION OF THE DEPARTMENT IS
30 SUBJECT TO THE APPROVAL OF THE SECRETARY.

31 (3) THE SECRETARY MAY DELEGATE THE POWER OF APPROVAL TO THE
32 HEADS OR GOVERNING BODIES OF THE BOARDS, COMMISSIONS, DIVISIONS, OR
33 OTHER AGENCIES WITHIN THE JURISDICTION OF THE DEPARTMENT.

1 5-203.

2 (a) The Secretary is responsible for the budget of the Department.

3 (b) (1) The Secretary may adopt regulations for the Department.

4 (2) THE SECRETARY SHALL REVIEW AND SHALL HAVE THE POWER TO
5 APPROVE OR DISAPPROVE OR REVISE THE REGULATIONS OF ALL BOARDS,
6 COMMISSIONS, DIVISIONS, AND OTHER AGENCIES WITHIN THE JURISDICTION OF
7 THE DEPARTMENT.

8 (C) IN ADDITION TO THE MEETINGS OF ANY BOARD OR COMMISSION WITHIN
9 THE DEPARTMENT THAT ARE PROVIDED FOR BY LAW OR ARE CALLED BY THE CHAIR
10 OF THE BOARD OR COMMISSION, THE SECRETARY, WHENEVER APPROPRIATE, MAY
11 CALL A MEETING OF A BOARD OR COMMISSION TO CONSIDER ANY SUBJECT THAT
12 THE SECRETARY CONSIDERS NECESSARY AND PROPER.

13 (D) ALL BOARDS, COMMISSIONS, DIVISIONS, AND OTHER AGENCIES OF THE
14 DEPARTMENT SHALL REPORT TO THE SECRETARY OR THE SECRETARY'S DESIGNEE
15 AS PROVIDED IN REGULATIONS OR WRITTEN DIRECTIVES OF THE SECRETARY.

16 [(c)] (E) The Secretary may create any citizens' advisory body that the
17 Secretary considers necessary for the operation of the Department.

18 [(d)] (F) The Secretary shall have a seal.

19 [(e)] (G) (1) The Secretary is responsible for the comprehensive planning of
20 programs and services of the Department.

21 (2) The Secretary shall review and approve or disapprove the plans of
22 the units in the Department.

23 [(f)] (H) The Secretary or a staff member of the Department designated by the
24 Secretary shall have access to information that relates to State planning in the
25 possession of any unit of the State government, of a regional government, or of a local
26 government.

27 [(g)] (I) If the entry is made in a manner so as to cause no unnecessary injury,
28 the Secretary or a staff member of the Department designated by the Secretary may
29 enter, at any reasonable hour, on any land in order to make examinations and surveys
30 that relate to State planning.

31 [(h)] (J) After providing adequate public notice, the Secretary shall hold
32 hearings on matters of State planning whenever it is in the public interest to do so.

33 [(i)] (K) In the interest of intergovernmental cooperation, the Secretary shall
34 attend:

35 (1) meetings of regional planning commissions;

36 (2) interstate planning conferences; and

1 (3) other planning conferences.

2 [(j)] (L) The Secretary may contract for professional or consultant services for
3 work related to State planning as provided in the State budget.

4 [(k)] (M) The Secretary may exercise any power necessary and proper to
5 discharge the Secretary's duties.

6 5A-101.

7 There is a Division of Historical and Cultural Programs IN THE DEPARTMENT
8 OF PLANNING.

9 5A-102.

10 The Division of Historical and Cultural Programs includes:

11 (1) the Commission on African American History and Culture; AND

12 (2) [the Commission on Indian Affairs;

13 (3)] the Maryland Historical Trust[; and

14 (4) the Historical and Cultural Museum Assistance Program].

15 5A-206.

16 (c) Subject to the rules and policies adopted by the Commission and the
17 administrative supervision of the Secretary in accordance with [Title 2] TITLE 5,
18 SUBTITLE 2 of this article, the Director shall:

19 (1) administer the activities of the Commission; and

20 (2) supervise the appointment and removal of Commission personnel.

21 5A-208.

22 (b) Money received under subsection (a) of this section, income from the
23 operation of the Banneker-Douglass Museum, and money from educational materials
24 and activities of the Commission are not subject to § 7-302 of [the State Finance and
25 Procurement Article] THIS ARTICLE.

26 5A-301.

27 (e) "Preservation" OR "HISTORIC PRESERVATION" means the identification,
28 evaluation, recordation, documentation, curation, acquisition, protection,
29 management, rehabilitation, restoration, stabilization, maintenance, and
30 reconstruction of a historic property.

1 5A-303.

2 (d) (2) (i) There is a Heritage Structure Rehabilitation Tax Credit
3 Reserve Fund [which] THAT is a [special] continuing, nonlapsing SPECIAL fund that
4 is not subject to § 7-302 of [the State Finance and Procurement Article] THIS
5 ARTICLE.

6 (3) (v) Notwithstanding the provisions of § 7-213 of [the State
7 Finance and Procurement Article] THIS ARTICLE, the Governor may not reduce an
8 appropriation to the Reserve Fund in the State budget as approved by the General
9 Assembly.

10 5A-304.

11 (b) (1) Under [§ 5-418] § 5A-318 of this subtitle, the Board of Public Works
12 may select the Trust as the State unit to control and administer any property
13 acquired.

14 5A-313.

15 (c) (3) The Secretary shall advise the Governor on the appointment of
16 trustees qualified under paragraph (1) of this subsection after consulting with the
17 Advisory Committee on Archaeology established under [§ 5-436] § 5A-336 of this
18 subtitle.

19 5A-315.

20 (b) (2) The Director appointed under [§ 5-416] § 5A-316 of this subtitle shall
21 call a special meeting:

22 (i) on order of the chair, on the chair's own initiative; or

23 (ii) at the request of four or more trustees.

24 5A-318.

25 (d) Income and fees received by the Trust, including fees authorized under this
26 subtitle and income from educational and other preservation materials, activities,
27 and services of the Trust, are not subject to § 7-302 of [the State Finance and
28 Procurement Article] THIS ARTICLE.

29 5A-324.

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

31 (c) The Secretary of [Housing and Community Development] PLANNING
32 serves as chair.

33 5A-325.

34 (a) (2) The consultation shall occur:

1 (i) before the State unit submits a request for the capital project to
2 the Department of Budget and Management under § 3-602 of [the State Finance and
3 Procurement Article] THIS ARTICLE;

4 (ii) before or as part of the final project planning phase for a major
5 transportation capital project as defined in § 2-103.1 of the Transportation Article; or

6 (iii) as early in the planning process as possible for a capital project
7 that uses nonbudgeted money and is subject to the reporting requirements of § 3-602
8 of [the State Finance and Procurement Article] THIS ARTICLE.

9 5A-327.

10 (e) (1) The MHT Loan Fund is a continuing, nonlapsing special fund that is
11 not subject to § 7-302 of [the State Finance and Procurement Article] THIS ARTICLE.

12 (i) (2) A loan from the MHT Loan Fund may be granted at an interest rate
13 lower than rates on other loans from the MHT Loan Fund if:

14 (ii) the Secretary OF HOUSING AND COMMUNITY DEVELOPMENT
15 determines under § 4-212 of [this article] THE HOUSING AND COMMUNITY
16 DEVELOPMENT ARTICLE that after restoration or rehabilitation, the historic property
17 will be wholly or partly occupied by individuals or families of limited income.

18 (l) (2) Except for an expenditure under subsection (d)(2) or (3) of this
19 section, a loan or expenditure from the MHT Loan Fund is not subject to Titles 4 and
20 5 of [the State Finance and Procurement Article] THIS ARTICLE.

21 5A-328.

22 (e) (2) The MHT Grant Fund may be used:

23 (i) for the purposes set forth in [§ 5-453] § 5A-353 of this subtitle;

24 (g) (1) The MHT Grant Fund is a continuing, nonlapsing special fund that is
25 not subject to § 7-302 of [the State Finance and Procurement Article] THIS ARTICLE.

26 (h) The MHT Grant Fund consists of:

27 (1) money appropriated in the State budget to the MHT Grant Program
28 or the Historical and Cultural Museum Assistance Program under [§ 5-452] § 5A-352
29 of this subtitle;

30 (k) (2) Except for an expenditure under subsection (e)(2)(v) and (vi) of this
31 section, grants and expenditures from the MHT Grant Fund are not subject to Titles
32 4 and 5 of [the State Finance and Procurement Article] THIS ARTICLE.

33 5A-329.

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

1 (e) (1) The Fund is a continuing, nonlapsing special fund that is not subject
2 to § 7-302 of [the State Finance and Procurement Article] THIS ARTICLE.

3 [5A-330.

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

5 (b) There is a Lighthouse Preservation Special Fund.

6 (c) With the advice of a lighthouse preservation advisor, the Trust may use the
7 Fund only:

8 (1) to preserve a lighthouse in the State that is publicly owned or owned
9 by a nonprofit entity;

10 (2) for education about or preservation or promotion of lighthouses in the
11 State; and

12 (3) to compensate staff employed by the Trust to administer the Fund.

13 (d) The Trust may employ staff to administer the Fund.

14 (e) (1) The Fund is a continuing, nonlapsing special fund that is not subject
15 to § 7-302 of the State Finance and Procurement Article.

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

18 (f) The Fund consists of:

19 (1) proceeds from items the Trust sells that relate to lighthouse
20 preservation;

21 (2) earnings from the investment of money in the Fund;

22 (3) money received as consideration for the disposition of a capital asset
23 purchased with money from the Fund, as provided in § 10-306(c)(2) of the State
24 Finance and Procurement Article; and

25 (4) money or grants accepted under subsection (h)(1) of this section.

26 (g) Money in the Fund shall be invested in the same manner as other State
27 money.

28 (h) The Trust may:

29 (1) apply for and accept money or a grant from a federal, State, local, or
30 private source to help preserve lighthouses in the State that are publicly owned or
31 owned by nonprofit organizations; and

1 (2) contract for and sell by any method any item relating to lighthouse
2 preservation.

3 (i) (1) The Secretary shall appoint a lighthouse preservation advisor.

4 (2) The lighthouse preservation advisor shall serve without
5 compensation.

6 (j) On or before January 30 of each year, the Trust shall report to the
7 Governor and, subject to § 2-1246 of the State Government Article, to the Senate
8 Budget and Taxation Committee and the House Appropriations Committee of the
9 General Assembly on the financial status of the Fund for the preceding fiscal year.]

10 5A-333.

11 (b) "Archaeology Office" means the Archaeology Office established under [§
12 5-434] § 5A-334 of this subtitle.

13 5A-334.

14 (c) (1) The Director shall employ a Chief Archaeologist, a State Terrestrial
15 Archaeologist, and a State Underwater Archaeologist in accordance with [§ 5-416] §
16 5A-316 of this subtitle.

17 5A-335.

18 (c) The Archaeology Office also shall:

19 (3) provide to the Committee each year a copy of the part of the Trust's
20 annual report to the Governor, required by [§ 5-418(c)(16)] § 5A-318(C)(16) of this
21 subtitle, that relates to the Trust's archaeological activities.

22 5A-338.

23 The costs of archaeological work incurred in a State project on a site of
24 archaeological or historical significance shall be as stated in § 7-114.1 of [the State
25 Finance and Procurement Article] THIS ARTICLE.

26 5A-340.

27 (b) The State may convey title to part or all of submerged archaeological
28 historic property it owns in accordance with a permit, if the Board of Public Works
29 approves the permit in accordance with Title 10, Subtitle 3 of [the State Finance and
30 Procurement Article] THIS ARTICLE.

31 (c) (1) The Trust and a holder of a permit under [§ 5-441] § 5A-341 of this
32 subtitle may enter into an agreement to dispose of submerged archaeological historic
33 property recovered by the holder.

1 5A-341.

2 (c) (1) Regulations under [§ 5-440(e)] § 5A-340(E) of this subtitle shall
3 provide that an individual does not need a permit to collect from submerged
4 archaeological historic property a limited number of objects or materials recoverable
5 by hand or with the use of screwdrivers, wrenches, or pliers.

6 (f) Subject to subsection (g) of this section, the Trust may issue to any person
7 a permit granting an exclusive right to remove, excavate, destroy, injure, or disturb
8 submerged archaeological historic property on land over which the State has
9 sovereign control for the term and under the conditions that the Trust considers
10 appropriate if:

11 (1) the Trust and the applicant for the permit have entered into an
12 agreement under [§ 5-440(c)] § 5A-340(C) of this subtitle; and

13 (g) The Trust may not issue a permit to a person that seeks title to part or all
14 of submerged archaeological historic property, or to a person that seeks to use
15 submerged archaeological historic property for commercial salvage or another
16 income-producing purpose, unless:

17 (2) the Trust finds that:

18 (iii) the proposed excavation or disturbance will be minor and will
19 produce information relevant to the statewide comprehensive historic preservation
20 plan prepared by the Trust under [§ 5-418(c)(4)] § 5A-318(C)(4) of this subtitle; or

21 5A-342.

22 (f) The Director or the Director's designee may enforce the provisions of this
23 subtitle relating to terrestrial archaeological historic property in the same manner as
24 provided in [§ 5-441(i)] § 5A-341(I) of this subtitle for submerged archaeological
25 historic property.

26 5A-343.

27 (b) In accordance with [§§ 5-441 and 5-442] §§ 5A-341 AND 5A-342 of this
28 subtitle, an individual trained in archaeology may apply for and be issued a permit to
29 excavate or remove features described in subsection (a) of this section from or in a
30 cave on land that the State owns or controls by rights under a lease, option contract,
31 or purchase contract.

32 (f) The Director and the Director's designee may enforce the provisions of this
33 part relating to archaeological historic property found in caves in the same manner as
34 provided in [§ 5-441(i)] § 5A-341(I) of this subtitle for submerged archaeological
35 historic property.

1 5A-346.

2 (a) (1) A person who violates [§ 5-439, § 5-441, § 5-442, or § 5-443] §
3 5A-339, § 5A-341, § 5A-342, OR § 5A-343 of this subtitle, or a regulation adopted under
4 any of those sections is guilty of a misdemeanor and on conviction is subject to
5 imprisonment not exceeding 30 days or a fine not exceeding \$1,000 or both.

6 (2) If a person is found guilty of a violation under paragraph (1) of this
7 subsection, the court:

8 (i) may impose costs against the person; and

9 (ii) on request by the Trust, may revoke any permit issued to the
10 person under [§ 5-440, § 5-441, § 5-442, or § 5-443] § 5A-340, § 5A-341, § 5A-342, OR
11 § 5A-343 of this subtitle.

12 (3) Each day on which a violation occurs is a separate violation.

13 (b) (1) A person who violates any term of a permit issued under [§ 5-441] §
14 5A-341 of this subtitle for use of a submerged archaeological historic property for
15 commercial salvage or other income-producing purpose is guilty of a misdemeanor
16 and on conviction is subject to imprisonment not exceeding 1 year or a fine not
17 exceeding \$10,000 or both.

18 (2) If a person is found guilty of a violation under paragraph (1) of this
19 subsection, the court:

20 (i) may impose costs against the person; and

21 (ii) on request by the Trust, may revoke the person's permit.

22 (3) Each day on which a violation occurs is a separate violation.

23 (c) Materials and recorded information obtained in violation of [§ 5-439, §
24 5-441, § 5-442, or § 5-443] § 5A-339, § 5A-341, § 5A-342, OR § 5A-343 of this subtitle are
25 subject to appropriation by the State and will be managed, cared for, and
26 administered by the Trust.

27 5A-353.

28 (b) The Program shall make grants from the MHT Grant Fund under [§
29 5-428] § 5A-328 of this subtitle to political subdivisions and nonprofit organizations
30 for use by museums for:

31 (1) research related to collections, exhibits, or other educational
32 activities;

33 (2) the care, conservation, interpretation, and documentation of
34 collections;

35 (3) the planning, design, and construction of exhibits;

- 1 (4) educational programs and projects;
- 2 (5) the development of master plans for museums, including activities
3 required to achieve accreditation by the American Association of Museums or another
4 appropriate entity;
- 5 (6) minor structural modifications to existing museum facilities;
- 6 (7) the development of plans and specifications and the provision of
7 architectural, engineering, or other special services directly related to the
8 construction or rehabilitation of museum facilities; or
- 9 (8) operating support for any museum-related activity, including
10 activities described in items (1) through (7) of this subsection.

11 5A-357.

12 In any fiscal year, the Secretary may reserve up to 20% of the money available
13 in the MHT Grant Fund under [§ 5-428] § 5A-328 of this subtitle for unanticipated
14 projects eligible for assistance under [§ 5-453] § 5A-353 of this subtitle.

15 **Article - State Government**

16 10-618.

17 (g) (1) A custodian may deny inspection of a public record that contains
18 information concerning the site-specific location of an endangered or threatened
19 species of plant or animal, a species of plant or animal in need of conservation, a cave,
20 or a historic property as defined in [§ 5-401 of the Housing and Community
21 Development Article] § 5A-301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

22 **Article - Tax - General**

23 10-704.5.

24 (a) An individual or corporation may claim a credit against the State income
25 tax for a certified rehabilitation as provided under [§ 5-403 of the Housing and
26 Community Development Article] § 5A-303 OF THE STATE FINANCE AND
27 PROCUREMENT ARTICLE.

28 (b) An individual or corporation that is not otherwise required to file an
29 income tax return, including a corporation exempt from income tax under § 501(c)(3)
30 of the Internal Revenue Code:

31 (2) shall file a return if the individual or corporation is subject to the
32 recapture of the credit under this section as provided under [§ 5-403 of the Housing
33 and Community Development Article] § 5A-303 OF THE STATE FINANCE AND
34 PROCUREMENT ARTICLE.

1 SECTION 4. AND BE IT FURTHER ENACTED, That the continuity of every
2 division, board, commission, authority, council, committee, office, and other unit is
3 retained. The personnel, records, files, furniture, fixtures, and other properties and
4 all appropriations, credits, assets, liabilities, and obligations of each retained unit are
5 continued as the personnel, records, files, furniture, fixtures, properties,
6 appropriations, credits, assets, liabilities, and obligations of the unit under the laws
7 enacted by this Act.

8 SECTION 5. AND BE IT FURTHER ENACTED, That all persons who, as of
9 October 1, 2005, are employees in budgeted positions of the Department of Housing
10 and Community Development and whose positions are transferred to the Department
11 of Planning or the Department of Human Resources as provided by this Act are
12 hereby transferred to the Department of Planning or the Department of Human
13 Resources, whichever is appropriate, without any charge or loss of rights or status,
14 and shall retain any merit system and retirement status they may have on the date of
15 transfer.

16 SECTION 6. AND BE IT FURTHER ENACTED, That, except as otherwise
17 provided in this Act, all findings and determinations, permits and licenses,
18 applications for permits and licenses, rules and regulations, proposed rules and
19 regulations, standards and guidelines, proposed standards and guidelines, orders and
20 other directives, forms, plans, memberships, special funds, appropriations, grants,
21 loans, applications and commitments for grants, loans, and tax credits, contracts, real
22 and personal property, equipment, artifacts, collections, investigations,
23 administrative and judicial proceedings, rights to sue and be sued, and all other
24 duties and responsibilities associated with those functions transferred by this Act
25 shall continue in effect under the Department of Planning or the Department of
26 Human Resources, whichever is appropriate, as provided by this Act, until completed,
27 withdrawn, canceled, modified, or otherwise changed in accordance with law.

28 SECTION 7. AND BE IT FURTHER ENACTED, That any unexpended
29 appropriation for the use of any of the units, programs, or activities herein
30 transferred to the Department of Planning or the Department of Human Resources
31 shall be transferred by approved budget amendment to the Department of Planning
32 or the Department of Human Resources, whichever is appropriate.

33 SECTION 8. AND BE IT FURTHER ENACTED, That any outstanding
34 balance in the Lighthouse Preservation Special Fund on September 30, 2005, be
35 transferred to the MHT Grant Fund under § 5A-328 of the State Finance and
36 Procurement Article, as enacted by Section 3 of this Act.

37 SECTION 9. AND BE IT FURTHER ENACTED, That nothing in this Act
38 affects the terms of office of an appointed or elected member of any division, board,
39 commission, authority, council, committee, office, or unit. An individual who is a
40 member of a division, board, commission, authority, council, committee, office, or unit
41 on the effective date of this Act shall remain a member for the balance of the term to
42 which appointed or elected, unless the member sooner dies, resigns, or is removed
43 under provisions of law.

1 SECTION 10. AND BE IT FURTHER ENACTED, That, except as expressly
2 provided to the contrary in this Act, any transaction affected by or flowing from any
3 statute here amended, repealed, or transferred, and validly entered into before the
4 effective date of this Act, and every right, duty, or interest following from the
5 transaction, remains valid after the effective date of this Act and may be terminated,
6 completed, consummated, or enforced pursuant to law.

7 SECTION 11. AND BE IT FURTHER ENACTED, That the publisher of the
8 Annotated Code of Maryland, in consultation with and subject to the approval of the
9 Department of Legislative Services, shall correct, with no further action required by
10 the General Assembly, cross-references and terminology rendered incorrect by this
11 Act or by any other Act of the General Assembly of 2005 that affects provisions
12 enacted by this Act. The publishers shall adequately describe any such correction in
13 an editor's note following the section affected.

14 SECTION 12. AND BE IT FURTHER ENACTED, That this Act shall take
15 effect October 1, 2005.

