

UNOFFICIAL COPY OF HOUSE BILL 84
CONSTITUTIONAL AMENDMENT

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6lr0448

(PRE-FILED)

By: **Delegate Smigiel**
Requested: August 9, 2005
Introduced and read first time: January 11, 2006
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Court of Special Appeals - Right of Appeal from Circuit Court In Banc**

3 FOR the purpose of proposing an amendment to the Maryland Constitution relating
4 to the establishment of the right of a party who did not seek review by a circuit
5 court in banc to the Court of Special Appeals from an adverse decision by the
6 circuit court in banc; altering the composition of a panel of judges for an in banc
7 review; repealing the authority of the circuit courts to regulate by rules the
8 procedure for appeals to the circuit court in banc; providing that the procedure
9 for appeals to the circuit court in banc be provided by the Maryland Rules;
10 providing that a decision by the circuit court in banc does not preclude the right
11 of appeal to the Court of Special Appeals by an adverse party who did not seek
12 in banc review; repealing an obsolete provision regarding "writs of error"; and
13 submitting this amendment to the qualified voters of the State of Maryland for
14 their adoption or rejection.

15 BY proposing an amendment to the Maryland Constitution
16 Article IV - Judiciary Department
17 Section 22

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, (Three-fifths of all the members elected to each of the two Houses
20 concurring), That it be proposed that the Maryland Constitution read as follows:

21 **Article IV - Judiciary Department**

22 22.

23 Where any [Term is held, or] trial IS conducted by less than [the whole number
24 of said] THREE Circuit Judges, upon the decision or determination of any point, or
25 question, by the Court, it shall be competent to the party, against whom the ruling or
26 decision is made, upon motion, to have the point, or question reserved for the
27 consideration of [the] three Judges of the Circuit, who shall constitute a court in banc
28 for such purpose; and the motion for such reservation shall be entered of record,
29 during the sitting[,] at which such decision may be made; and the [several Circuit
30 Courts shall regulate, by rules, the mode and manner of presenting such points, or

1 questions to the Court in banc, and] PROCEDURE FOR APPEALS TO THE CIRCUIT
2 COURT IN BANC SHALL BE AS PROVIDED BY THE MARYLAND RULES. [the] THE
3 decision of the said Court in banc shall be the effective decision in the premises, and
4 conclusive, as against the party[,] at whose motion said points, or questions were
5 reserved; but such decision in banc shall not preclude the right of Appeal[, or writ of
6 error to the] BY AN adverse party WHO DID NOT SEEK IN BANC REVIEW, in those
7 cases, civil or criminal, in which appeal[, or writ of error] to the Court of SPECIAL
8 Appeals may be allowed by Law. The right of having questions reserved shall not,
9 however, apply to trials of Appeals from judgments of the District Court, nor to
10 criminal cases below the grade of felony, except when the punishment is confinement
11 in the Penitentiary; and this Section shall be subject to such provisions as may
12 hereafter be made by Law.

13 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly
14 determines that the amendment to the Maryland Constitution proposed by this Act
15 affects multiple jurisdictions and that the provisions of Article XIV, § 1 of the
16 Maryland Constitution concerning local approval of constitutional amendments do
17 not apply.

18 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
19 proposed as an amendment to the Maryland Constitution shall be submitted to the
20 legal and qualified voters of this State at the next general election to be held in
21 November, 2006 for their adoption or rejection in pursuance of directions contained in
22 Article XIV of the Maryland Constitution. At that general election, the vote on this
23 proposed amendment to the Constitution shall be by ballot, and upon each ballot
24 there shall be printed the words "For the Constitutional Amendment" and "Against
25 the Constitutional Amendment," as now provided by law. Immediately after the
26 election, all returns shall be made to the Governor of the vote for and against the
27 proposed amendment, as directed by Article XIV of the Maryland Constitution, and
28 further proceedings had in accordance with Article XIV.