
By: **Delegates Love, Anderson, Aumann, Barkley, Bartlett, Barve, Benson, Bobo, Bohanan, Boschert, Burns, Cadden, Carter, G. Clagett, V. Clagett, Cluster, Conroy, Costa, Cryor, C. Davis, D. Davis, DeBoy, Donoghue, Dumais, Edwards, Feldman, Franchot, Frank, Gaines, Gilleland, Goldwater, Goodwin, Gutierrez, Harrison, Haynes, Healey, Heller, Hixson, Hogan, Howard, Hubbard, James, Jennings, Jones, Kaiser, Kelly, King, Kohl, Krysiak, Kullen, Lawton, Lee, Levy, Madaleno, Malone, Mandel, Marriott, McComas, McHale, McIntosh, McKee, Menes, Minnick, Moe, Montgomery, Morhaim, Myers, Nathan-Pulliam, Niemann, Oaks, O'Donnell, Paige, Patterson, Pendergrass, Petzold, Proctor, Pugh, Quinter, Ramirez, Rosenberg, Ross, Shank, Sophocleus, Stern, Trueschler, F. Turner, V. Turner, Vaughn, Weldon, Wood, and Zirkin**

Introduced and read first time: February 10, 2006

Assigned to: Economic Matters and Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Quality Child Care Access and Affordability Act**

3 FOR the purpose of authorizing family child care providers to form, join, and
 4 participate in the activities of provider organizations; specifying that a provider
 5 may refuse to join or participate in the activities of provider organizations;
 6 authorizing providers to designate which provider organizations, if any, shall be
 7 the joint negotiating representative of all Purchase of Child Care Subsidy
 8 Program (POC) providers and the joint rulemaking representative of all
 9 non-Purchase of Child Care Subsidy Program (non-POC) providers; limiting
 10 the number of statewide provider units; establishing certain procedures for
 11 petitioning of a provider organization for recognition as exclusive representative
 12 of providers; establishing certain procedures for the election of provider
 13 organizations; establishing a certain minimum period of representation for the
 14 initial designation of a provider organization; requiring that a certain
 15 percentage of providers petition to request an election after the initial
 16 designation period of a provider organization; requiring provider organizations
 17 designated as exclusive representative to represent all providers in the unit
 18 fairly, without regard to whether or not the provider is a member of the provider
 19 organization; requiring the State Department of Education and the Department
 20 of Human Resources to negotiate with the exclusive representative of POC
 21 providers on certain matters; authorizing the State Department of Education
 22 and the Department of Human Resources to negotiate with the exclusive joint
 23 negotiating representative of POC providers on certain matters; limiting the

1 service or representation fee of the members of the POC provider unit;
2 authorizing a certain deduction in the membership dues of POC providers;
3 requiring the State Department of Education to meet and confer with the
4 exclusive joint rulemaking representative of non-POC providers on certain
5 matters; authorizing the State Department of Education to meet and confer with
6 the exclusive joint rulemaking representative of non-POC providers on certain
7 matters; establishing certain procedures for the appointment of a third party
8 when there is an impasse; specifying that if certain issues agreed on by certain
9 parties would require modifications of existing regulations, the issues may not
10 become effective until the modifications to the regulations have been made in a
11 certain manner; specifying that the designation of certain State representatives
12 under this Act does not prevent provider organizations from appearing before or
13 making proposals to certain State agencies at a public meeting or hearing;
14 prohibiting the State and provider organizations from certain actions against
15 providers because of the exercise of the providers' rights to join or refuse to join
16 a provider organization; prohibiting a provider organization from calling or
17 directing a strike; altering the calculation of a certain credit allowed against the
18 State income tax for certain child care and dependent care expenses; altering
19 certain income levels determining eligibility for the credit and the amount of the
20 credit allowed; declaring the legislative intent of the General Assembly as it
21 relates to the application of a certain exemption to State and federal antitrust
22 laws; providing for the application and construction of this Act; defining certain
23 terms; making certain technical changes; declaring that the provisions of this
24 Act are not severable; and generally relating to the organization of family child
25 care providers and tax credits for child care and dependent care expenses.

26 BY adding to
27 Article - Education
28 Section 27-101 through 27-113, inclusive, to be under the new title "Title 27.
29 Organization of Family Child Care Providers"
30 Annotated Code of Maryland
31 (2004 Replacement Volume and 2005 Supplement)

32 BY repealing and reenacting, with amendments,
33 Article - Tax - General
34 Section 10-716
35 Annotated Code of Maryland
36 (2004 Replacement Volume and 2005 Supplement)

37 Preamble

38 WHEREAS, This Act shall be known and may be cited as the "Quality Child
39 Care Access and Affordability Act"; and

40 WHEREAS, Quality child care is a fundamental need for Maryland families
41 with the majority of children under 6 years of age having both parents, or their sole
42 parent, in the workforce; and

1 WHEREAS, Family child care providers play a crucial role in providing quality
2 and affordable child care for young children and working parents; and

3 WHEREAS, Wages and training opportunities need to be increased in order to
4 attract a sufficient number of providers to meet a growing statewide demand for
5 family child care services; and

6 WHEREAS, The number of registered family child care providers in Maryland is
7 projected to drop from 11,000 in 2001 to 8,600 in 2007, thus limiting parents' choices
8 for quality child care; and

9 WHEREAS, Families receiving assistance through the State's Purchase of Child
10 Care Subsidy Program do not control the economic and other terms of delivery of
11 services, and therefore cannot effectively address concerns common to family child
12 care providers throughout the State; and

13 WHEREAS, Individual family child care providers cannot effectively voice their
14 common concerns regarding the terms and conditions of both their provision of
15 services under the State's Purchase of Child Care Subsidy Program and the
16 development of rules and regulations that govern the provision of services in
17 Maryland family child care homes; and

18 WHEREAS, Empowering family child care providers to negotiate jointly with
19 the State will improve the efficiency and effectiveness of communication between
20 family child care providers and the State and help restore the competitive balance in
21 the market for family child care services, thereby providing benefits for parents and
22 the community; and

23 WHEREAS, Currently under State law, many low-income and middle-income
24 Maryland individuals and families are not eligible under the State's Purchase of Child
25 Care Subsidy Program or the State's child and dependent care tax credit, and
26 therefore do not qualify for meaningful State assistance to offset the cost of investing
27 in quality child care for their children; now, therefore,

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

30 **Article - Education**

31 **TITLE 27. ORGANIZATION OF FAMILY CHILD CARE PROVIDERS.**

32 27-101.

33 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

34 (B) "FAMILY CHILD CARE PROVIDER" MEANS:

35 (1) A FAMILY DAY CARE PROVIDER AS DEFINED IN § 5-550 OF THE
36 FAMILY LAW ARTICLE; OR

1 (2) AN INDIVIDUAL WHO CARES FOR NO MORE THAN EIGHT CHILDREN
2 IN A FAMILY DAY CARE HOME THAT IS EXEMPT FROM THE REGISTRATION
3 REQUIREMENTS UNDER § 5-552(B) OF THE FAMILY LAW ARTICLE.

4 (C) "NON-POC PROVIDER" MEANS A FAMILY CHILD CARE PROVIDER WHO
5 DOES NOT PARTICIPATE IN THE POC PROGRAM.

6 (D) "POC PROGRAM" MEANS THE STATE PURCHASE OF CHILD CARE SUBSIDY
7 PROGRAM.

8 (E) "POC PROVIDER" MEANS A FAMILY CHILD CARE PROVIDER WHO
9 PARTICIPATES IN THE POC PROGRAM.

10 (F) "PROVIDER ORGANIZATION" MEANS AN ORGANIZATION THAT:

11 (1) INCLUDES FAMILY CHILD CARE PROVIDERS; AND

12 (2) HAS AS ONE OF ITS MAIN PURPOSES THE REPRESENTATION OF
13 FAMILY CHILD CARE PROVIDERS IN THEIR RELATIONS WITH THE STATE.

14 27-102.

15 IN ACCORDING FAMILY CHILD CARE PROVIDERS AND THEIR REPRESENTATIVES
16 RIGHTS UNDER THIS TITLE, IT IS THE LEGISLATIVE INTENT OF THE GENERAL
17 ASSEMBLY THAT THE STATE ACTION EXEMPTION TO THE APPLICATION OF FEDERAL
18 AND STATE ANTITRUST LAWS BE FULLY AVAILABLE TO THE EXTENT THAT THE
19 ACTIVITIES OF THE FAMILY CHILD CARE PROVIDERS AND THEIR REPRESENTATIVES
20 ARE AUTHORIZED UNDER THIS TITLE.

21 27-103.

22 (A) FAMILY CHILD CARE PROVIDERS MAY FORM, JOIN, AND PARTICIPATE IN
23 THE ACTIVITIES OF PROVIDER ORGANIZATIONS OF THEIR OWN CHOICE FOR THE
24 PURPOSE OF BEING REPRESENTED ON ALL MATTERS THAT INCLUDE, AS
25 APPLICABLE, RATES OF REIMBURSEMENTS, REGULATION, AND OTHER WORKING
26 CONDITIONS.

27 (B) A FAMILY CHILD CARE PROVIDER MAY REFUSE TO JOIN OR PARTICIPATE
28 IN THE ACTIVITIES OF PROVIDER ORGANIZATIONS.

29 27-104.

30 (A) FAMILY CHILD CARE PROVIDERS MAY DESIGNATE, IN ACCORDANCE WITH
31 THE PROVISIONS OF THIS TITLE, WHICH PROVIDER ORGANIZATION, IF ANY, SHALL
32 BE:

33 (1) THE JOINT NEGOTIATING REPRESENTATIVE OF ALL POC PROVIDERS
34 IN THE STATE; AND

35 (2) THE JOINT RULEMAKING REPRESENTATIVE OF ALL NON-POC
36 PROVIDERS IN THE STATE.

1 (B) (1) THERE MAY BE ONLY ONE STATEWIDE UNIT THAT INCLUDES ALL
2 POC PROVIDERS.

3 (2) THERE MAY BE ONLY ONE STATEWIDE UNIT THAT INCLUDES ALL
4 NON-POC PROVIDERS.

5 (3) THERE MAY NOT BE MORE THAN TWO UNITS IN THE STATE.

6 (C) ALL FAMILY CHILD CARE PROVIDERS:

7 (1) MAY BE INCLUDED IN ONE OF THESE UNITS; AND

8 (2) HAVE THE RIGHTS GRANTED IN THIS TITLE.

9 27-105.

10 (A) (1) IF A PROVIDER ORGANIZATION PETITIONS THE DEPARTMENT AND
11 THE DEPARTMENT OF HUMAN RESOURCES WITH WRITTEN AUTHORIZATION TO
12 SERVE AS JOINT NEGOTIATING REPRESENTATIVE FROM AT LEAST 30 PERCENT OF
13 THE TOTAL NUMBER OF POC PROVIDERS IN THE UNIT AS OF AUGUST 1 OF THE YEAR
14 IN WHICH THE PETITION IS MADE, THIS PETITION IS A REQUEST FOR RECOGNITION
15 AS REPRESENTATIVE OF ALL POC PROVIDERS IN THE UNIT.

16 (2) IF A PROVIDER ORGANIZATION PETITIONS THE DEPARTMENT WITH
17 WRITTEN AUTHORIZATION TO SERVE AS JOINT RULEMAKING REPRESENTATIVE
18 FROM AT LEAST 30 PERCENT OF THE TOTAL NUMBER OF NON-POC PROVIDERS IN
19 THE UNIT AS OF AUGUST 1 OF THE YEAR IN WHICH THE PETITION IS MADE, THIS
20 PETITION IS A REQUEST FOR RECOGNITION AS REPRESENTATIVE OF ALL NON-POC
21 PROVIDERS IN THE UNIT.

22 (B) (1) IF ANOTHER PROVIDER ORGANIZATION ALSO PETITIONS WITH
23 WRITTEN AUTHORIZATION TO SERVE AS JOINT NEGOTIATING REPRESENTATIVE
24 FROM AT LEAST 30 PERCENT OF THE TOTAL NUMBER OF POC PROVIDERS IN THE
25 UNIT AS OF AUGUST 1 OF THE YEAR IN WHICH THE PETITION IS MADE, AN ELECTION
26 SHALL BE HELD IN WHICH THE POC PROVIDERS IN THE UNIT SHALL BE OFFERED
27 THE OPPORTUNITY TO CHOOSE:

28 (I) ONE OF THE PROVIDER ORGANIZATIONS AS THE JOINT
29 NEGOTIATING REPRESENTATIVE OF ALL POC PROVIDERS IN THE UNIT; OR

30 (II) NOT TO HAVE REPRESENTATION.

31 (2) IF ANOTHER PROVIDER ORGANIZATION ALSO PETITIONS WITH
32 WRITTEN AUTHORIZATION TO SERVE AS JOINT RULEMAKING REPRESENTATIVE
33 FROM AT LEAST 30 PERCENT OF THE TOTAL NUMBER OF NON-POC PROVIDERS IN
34 THE UNIT AS OF AUGUST 1 OF THE YEAR IN WHICH THE PETITION IS MADE, AN
35 ELECTION SHALL BE HELD IN WHICH THE NON-POC PROVIDERS IN THE UNIT SHALL
36 BE OFFERED THE OPPORTUNITY TO CHOOSE:

1 (I) ONE OF THE PROVIDER ORGANIZATIONS AS THE JOINT
2 RULEMAKING REPRESENTATIVE OF ALL NON-POC PROVIDERS IN THE UNIT; OR

3 (II) NOT TO HAVE REPRESENTATION.

4 (C) IF NO OTHER PROVIDER ORGANIZATION PETITIONS WITH WRITTEN
5 AUTHORIZATION TO SERVE AS REPRESENTATIVE FROM AT LEAST 30 PERCENT OF
6 THE TOTAL NUMBER OF FAMILY CHILD CARE PROVIDERS IN THE UNIT, ON THE
7 REQUEST OF THE PETITIONING PROVIDER ORGANIZATION UNDER SUBSECTION (A)
8 OF THIS SECTION, AN ELECTION SHALL BE HELD AND THE BALLOT SHALL OFFER A
9 CHOICE BETWEEN:

10 (1) REPRESENTATION BY THE PROVIDER ORGANIZATION; AND

11 (2) NOT TO HAVE REPRESENTATION.

12 (D) (1) THE DEPARTMENT AND THE DEPARTMENT OF HUMAN RESOURCES
13 SHALL DESIGNATE THE PROVIDER ORGANIZATION DESCRIBED IN SUBSECTION (A)(1)
14 OF THIS SECTION AS REPRESENTATIVE OF ALL POC PROVIDERS IN THE SPECIFIED
15 UNIT IF:

16 (I) NO OTHER PROVIDER ORGANIZATION PETITIONS WITH
17 WRITTEN AUTHORIZATION TO SERVE AS REPRESENTATIVE FROM AT LEAST 30
18 PERCENT OF THE TOTAL NUMBER OF POC PROVIDERS IN THE UNIT;

19 (II) THE PROVIDER ORGANIZATION DOES NOT REQUEST AN
20 ELECTION UNDER SUBSECTION (C) OF THIS SECTION; AND

21 (III) THE PROVIDER ORGANIZATION PETITIONS THE DEPARTMENT
22 AND THE DEPARTMENT OF HUMAN RESOURCES WITH WRITTEN AUTHORIZATION TO
23 SERVE AS REPRESENTATIVE FROM THE MAJORITY OF THE POC PROVIDERS IN THE
24 UNIT.

25 (2) THE DEPARTMENT SHALL DESIGNATE THE PROVIDER
26 ORGANIZATION DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION AS
27 REPRESENTATIVE OF ALL NON-POC PROVIDERS IN THE SPECIFIED UNIT IF:

28 (I) NO OTHER PROVIDER ORGANIZATION PETITIONS WITH
29 WRITTEN AUTHORIZATION TO SERVE AS REPRESENTATIVE FROM AT LEAST 30
30 PERCENT OF THE TOTAL NUMBER OF NON-POC PROVIDERS IN THE UNIT;

31 (II) THE PROVIDER ORGANIZATION DOES NOT REQUEST AN
32 ELECTION UNDER SUBSECTION (C) OF THIS SECTION; AND

33 (III) THE PROVIDER ORGANIZATION PETITIONS THE DEPARTMENT
34 WITH WRITTEN AUTHORIZATION TO SERVE AS REPRESENTATIVE FROM THE
35 MAJORITY OF THE NON-POC PROVIDERS IN THE UNIT.

36 (E) (1) ON RECEIPT OF ANY AND ALL PETITIONS REQUESTING
37 RECOGNITION UNDER THIS SECTION, THE DEPARTMENT AND THE DEPARTMENT OF

1 HUMAN RESOURCES SHALL REQUEST THE AMERICAN ARBITRATION ASSOCIATION
2 TO:

3 (I) VERIFY THE NUMBER OF FAMILY CHILD CARE PROVIDERS WHO
4 HAVE AUTHORIZED A PROVIDER ORGANIZATION ON THE DATE OF THE PETITION
5 REQUESTING RECOGNITION; AND

6 (II) HOLD ELECTIONS UNDER THIS SECTION AND VERIFY THEIR
7 RESULTS ON OR BEFORE OCTOBER 1 OF THE YEAR IN WHICH THE PETITION IS MADE.

8 (2) IF THE AMERICAN ARBITRATION ASSOCIATION IS UNABLE OR
9 UNWILLING TO VERIFY PROVIDER AUTHORIZATION OR HOLD ELECTIONS UNDER
10 PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT AND THE DEPARTMENT OF
11 HUMAN RESOURCES SHALL JOINTLY APPOINT A NEUTRAL THIRD PARTY TO CARRY
12 OUT THE VERIFICATION AND ELECTION PROCESS.

13 (3) THE ELECTIONS SHALL BE HELD IN A MANNER ASSURING THE
14 SECRECY OF THE BALLOT.

15 (4) (I) THE COSTS OF VERIFYING THE NUMBER OF FAMILY CHILD
16 CARE PROVIDERS WHO HAVE AUTHORIZED THE SELECTION OF A PROVIDER
17 ORGANIZATION SHALL BE PAID BY THE PROVIDER ORGANIZATION THAT SUBMITS
18 THE PETITION FOR VERIFICATION.

19 (II) 1. THE COSTS OF THE ELECTION SHALL BE EQUALLY
20 SHARED BY EACH PROVIDER ORGANIZATION PLACED ON THE BALLOT.

21 2. IF ONLY ONE PROVIDER ORGANIZATION IS PLACED ON
22 THE BALLOT, THE PROVIDER ORGANIZATION SHALL PAY ALL COSTS OF THE
23 ELECTION.

24 (5) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, IN ANY
25 ELECTION HELD UNDER THIS SECTION, THE PROVIDER ORGANIZATION THAT
26 RECEIVES THE LARGEST NUMBER OF VOTES CAST IN A UNIT SHALL BE DESIGNATED
27 TO BE THE REPRESENTATIVE OF ALL FAMILY CHILD CARE PROVIDERS IN THE UNIT.

28 (II) IF THE LARGEST NUMBER OF VOTES IN THE ELECTION IS CAST
29 NOT TO HAVE REPRESENTATION, A REPRESENTATIVE MAY NOT BE DESIGNATED FOR
30 THE UNIT.

31 27-106.

32 (A) (1) THE INITIAL DESIGNATION OF A REPRESENTATIVE SHALL BE FOR 2
33 OR MORE YEARS.

34 (2) AFTER THIS INITIAL PERIOD, THE DESIGNATED PROVIDER
35 ORGANIZATION SHALL BE THE REPRESENTATIVE UNTIL ANOTHER ELECTION IS
36 HELD.

1 (B) (1) AN ELECTION AFTER THE INITIAL PERIOD OF REPRESENTATION MAY
2 BE HELD:

3 (I) ONLY AFTER THE END OF THE 2-YEAR PERIOD; AND

4 (II) ON PETITION SIGNED BY MORE THAN 30 PERCENT OF THE
5 FAMILY CHILD CARE PROVIDERS IN THE UNIT.

6 (2) THIS ELECTION SHALL BE HELD IN THE SAME MANNER AS
7 PROVIDED IN § 27-105 OF THIS TITLE.

8 (3) ALL SIGNATURES ON A PETITION REQUESTING AN ELECTION AFTER
9 THE INITIAL PERIOD SHALL BE OBTAINED WITHIN 90 DAYS BEFORE THE ELECTION
10 DATE.

11 27-107.

12 (A) A PROVIDER ORGANIZATION DESIGNATED AS THE REPRESENTATIVE OF
13 THE POC PROVIDER UNIT SHALL BE THE EXCLUSIVE JOINT NEGOTIATING
14 REPRESENTATIVE OF ALL POC PROVIDERS.

15 (B) A PROVIDER ORGANIZATION DESIGNATED AS THE EXCLUSIVE JOINT
16 NEGOTIATING REPRESENTATIVE SHALL REPRESENT ALL POC PROVIDERS IN THE
17 UNIT FAIRLY AND WITHOUT DISCRIMINATION, WHETHER OR NOT THE POC
18 PROVIDERS ARE MEMBERS OF THE PROVIDER ORGANIZATION.

19 (C) (1) THE DEPARTMENT AND THE DEPARTMENT OF HUMAN RESOURCES
20 SHALL NEGOTIATE WITH THE PROVIDER ORGANIZATION DESIGNATED AS THE
21 REPRESENTATIVE OF POC PROVIDERS IN THE UNIT A REASONABLE SERVICE OR
22 REPRESENTATION FEE, TO BE CHARGED NONMEMBERS FOR REPRESENTING THEM
23 IN NEGOTIATIONS, CONTRACT ADMINISTRATION, INCLUDING GRIEVANCES, AND
24 OTHER ACTIVITIES AS ARE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.

25 (2) THE SERVICE OR REPRESENTATION FEE MAY NOT EXCEED THE
26 ANNUAL DUES OF THE MEMBERS OF THE PROVIDER ORGANIZATION.

27 (3) THE DEPARTMENT AND DEPARTMENT OF HUMAN RESOURCES MAY
28 DEDUCT MEMBERSHIP DUES AND ANY SERVICE FEES FROM THE PAYMENTS TO POC
29 PROVIDERS AND REMIT THE FEES MONTHLY TO THE PROVIDER ORGANIZATION.

30 27-108.

31 (A) IN THIS SECTION, "NEGOTIATE" INCLUDES THE DUTY TO:

32 (1) CONFER IN GOOD FAITH, AT ALL REASONABLE TIMES; AND

33 (2) REDUCE TO WRITING THE MATTERS AGREED ON AS A RESULT OF
34 THE NEGOTIATIONS.

1 (B) THE AGREEMENTS MADE UNDER THIS SECTION MAY PROVIDE FOR
2 BINDING ARBITRATION OF THE GRIEVANCES ARISING UNDER THE AGREEMENT
3 THAT THE PARTIES HAVE AGREED TO BE SUBJECT TO ARBITRATION.

4 (C) SUBJECT TO THE AVAILABILITY OF FUNDING NECESSARY TO FUND THE
5 AGREEMENT, PARTIES THAT NEGOTIATE UNDER THE TERMS OF THIS SECTION
6 SHALL BE BOUND BY THE TERMS AND CONDITIONS AGREED ON THROUGH THE
7 NEGOTIATION PROCESS.

8 (D) (1) ON REQUEST, THE REPRESENTATIVES OF THE DEPARTMENT AND
9 THE DEPARTMENT OF HUMAN RESOURCES SHALL MEET AND NEGOTIATE WITH
10 REPRESENTATIVES OF THE PROVIDER ORGANIZATION THAT IS DESIGNATED AS THE
11 EXCLUSIVE JOINT NEGOTIATING REPRESENTATIVE OF POC PROVIDERS ON ALL
12 MATTERS THAT RELATE TO REIMBURSEMENT RATES, RULES AND REGULATIONS
13 GOVERNING FAMILY CHILD CARE HOMES, AND OTHER TERMS AND CONDITIONS OF
14 WORK.

15 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE
16 REPRESENTATIVES OF THE DEPARTMENT AND THE DEPARTMENT OF HUMAN
17 RESOURCES MAY NEGOTIATE WITH REPRESENTATIVES OF THE PROVIDER
18 ORGANIZATION THAT IS DESIGNATED AS THE EXCLUSIVE JOINT NEGOTIATING
19 REPRESENTATIVE OF POC PROVIDERS ON OTHER MATTERS THAT ARE MUTUALLY
20 AGREED TO BY THE DEPARTMENT, THE DEPARTMENT OF HUMAN RESOURCES, AND
21 THE PROVIDER ORGANIZATION.

22 (3) THE DEPARTMENT AND THE DEPARTMENT OF HUMAN RESOURCES
23 MAY NOT NEGOTIATE ANY MATTER THAT IS PRECLUDED BY APPLICABLE STATUTORY
24 LAW.

25 (4) IF THE TERMS OR CONDITIONS AGREED ON BY THE PARTIES TO THE
26 NEGOTIATIONS WOULD REQUIRE MODIFICATION OF EXISTING REGULATIONS, THE
27 TERMS MAY NOT BECOME EFFECTIVE UNTIL THE MODIFICATIONS HAVE BEEN MADE
28 BY THE DEPARTMENT AND THE DEPARTMENT OF HUMAN RESOURCES AND HAVE
29 TAKEN EFFECT IN ACCORDANCE WITH TITLE 10 OF THE STATE GOVERNMENT
30 ARTICLE.

31 (5) THE DESIGNATION OF REPRESENTATIVES BY THE DEPARTMENT
32 AND THE DEPARTMENT OF HUMAN RESOURCES UNDER THIS TITLE DOES NOT
33 PREVENT THE DESIGNATED PROVIDER ORGANIZATION OR ANY OTHER PROVIDER
34 ORGANIZATION FROM APPEARING BEFORE OR MAKING PROPOSALS TO THE
35 DEPARTMENT OR THE DEPARTMENT OF HUMAN RESOURCES AT A PUBLIC MEETING
36 OR HEARING.

37 (E) (1) IF, ON THE REQUEST OF A PARTY, THE STATE SUPERINTENDENT
38 DETERMINES FROM THE FACTS THAT AN IMPASSE IS REACHED IN NEGOTIATIONS
39 BETWEEN THE DEPARTMENT AND THE DEPARTMENT OF HUMAN RESOURCES AND A
40 PROVIDER ORGANIZATION THAT IS DESIGNATED AS AN EXCLUSIVE JOINT
41 NEGOTIATING REPRESENTATIVE OF POC PROVIDERS, THE ASSISTANCE AND ADVICE
42 OF THE STATE BOARD MAY BE REQUESTED, WITH THE CONSENT OF THE PARTIES.

1 (2) IF CONSENT IS NOT GIVEN AND AT THE REQUEST OF A PARTY, A
2 PANEL SHALL BE NAMED TO AID IN RESOLVING THE DIFFERENCES.

3 (3) THE PANEL SHALL CONTAIN THREE INDIVIDUALS CHOSEN AS
4 FOLLOWS:

5 (I) ONE MEMBER IS TO BE JOINTLY NAMED BY THE DEPARTMENT
6 AND THE DEPARTMENT OF HUMAN RESOURCES WITHIN 3 DAYS;

7 (II) ONE MEMBER IS TO BE NAMED BY THE PROVIDER
8 ORGANIZATION WITHIN 3 DAYS; AND

9 (III) ONE MEMBER IS TO BE CHOSEN BY THE OTHER TWO MEMBERS
10 WITHIN 10 DAYS AFTER THE REQUEST.

11 (4) THE STATE BOARD OR THE PANEL SELECTED SHALL MEET WITH THE
12 PARTIES TO AID IN RESOLVING THE DIFFERENCES, AND, IF THE MATTER IS NOT
13 RESOLVED, SHALL MAKE A WRITTEN REPORT AND RECOMMENDATION WITHIN 30
14 DAYS AFTER THE REQUEST.

15 (5) A COPY OF THE REPORT SHALL BE SENT TO THE REPRESENTATIVES
16 OF THE DEPARTMENT, THE DEPARTMENT OF HUMAN RESOURCES, AND THE
17 PROVIDER ORGANIZATION.

18 (6) ALL COSTS OF MEDIATION SHALL BE EQUALLY SHARED BY THE
19 DEPARTMENT, THE DEPARTMENT OF HUMAN RESOURCES, AND THE PROVIDER
20 ORGANIZATION.

21 27-109.

22 (A) THE PROVIDER ORGANIZATION DESIGNATED AS THE REPRESENTATIVE OF
23 THE NON-POC PROVIDER UNIT SHALL BE THE EXCLUSIVE JOINT RULEMAKING
24 REPRESENTATIVE OF ALL NON-POC PROVIDERS.

25 (B) THE PROVIDER ORGANIZATION DESIGNATED AS THE EXCLUSIVE JOINT
26 RULEMAKING REPRESENTATIVE SHALL REPRESENT ALL PROVIDERS IN THE
27 NON-POC PROVIDER UNIT FAIRLY AND WITHOUT DISCRIMINATION, WHETHER OR
28 NOT THE NON-POC PROVIDERS ARE MEMBERS OF THE PROVIDER ORGANIZATION.

29 27-110.

30 (A) IN THIS SECTION, "MEET AND CONFER" INCLUDES THE DUTY TO:

31 (1) CONFER IN GOOD FAITH, AT ALL REASONABLE TIMES; AND

32 (2) REDUCE TO WRITING THE MATTERS AGREED ON AS A RESULT OF
33 THE CONFERENCES.

34 (B) (1) ON REQUEST, THE REPRESENTATIVES OF THE DEPARTMENT SHALL
35 MEET AND CONFER WITH REPRESENTATIVES OF THE PROVIDER ORGANIZATION
36 THAT IS DESIGNATED AS THE EXCLUSIVE JOINT RULEMAKING REPRESENTATIVE OF

1 NON-POC PROVIDERS FOR THE PURPOSE OF ENGAGING IN JOINT DISCUSSION OF
2 PROPOSED RULES AND REGULATIONS GOVERNING FAMILY CHILD CARE HOMES.

3 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE
4 REPRESENTATIVES OF THE DEPARTMENT MAY MEET AND CONFER WITH
5 REPRESENTATIVES OF THE PROVIDER ORGANIZATION THAT IS DESIGNATED AS THE
6 EXCLUSIVE JOINT RULEMAKING REPRESENTATIVE OF NON-POC PROVIDERS ON
7 OTHER MATTERS CONCERNING THE RULES AND REGULATIONS GOVERNING FAMILY
8 CHILD CARE HOMES THAT ARE MUTUALLY AGREED TO BY THE DEPARTMENT AND
9 THE PROVIDER ORGANIZATION.

10 (3) IF THE MATTERS AGREED ON AS A RESULT OF THE CONFERENCES
11 WOULD REQUIRE MODIFICATION OF EXISTING REGULATIONS, THE MATTERS
12 AGREED ON MAY NOT BECOME EFFECTIVE UNTIL THE MODIFICATIONS HAVE BEEN
13 MADE BY THE DEPARTMENT AND HAVE TAKEN EFFECT IN ACCORDANCE WITH TITLE
14 10 OF THE STATE GOVERNMENT ARTICLE.

15 (4) THE DESIGNATION OF REPRESENTATIVES BY THE DEPARTMENT
16 UNDER THIS SECTION DOES NOT PREVENT THE DESIGNATED PROVIDER
17 ORGANIZATION OR ANY OTHER PROVIDER ORGANIZATION FROM APPEARING BEFORE
18 OR MAKING PROPOSALS TO THE DEPARTMENT AT A PUBLIC MEETING OR HEARING.

19 (C) THIS SECTION SHALL NOT BE CONSTRUED TO:

20 (1) VIOLATE ANY PROVISION OF THE MARYLAND ADMINISTRATIVE
21 PROCEDURES ACT; OR

22 (2) ENTITLE NON-POC PROVIDERS TO JOINTLY NEGOTIATE RATES
23 CHARGED TO PRIVATE PARTIES FOR THE PROVISION OF CHILD CARE SERVICES.

24 27-111.

25 (A) IN THIS SECTION, "STATE" INCLUDES:

26 (1) A UNIT OF THE STATE;

27 (2) AN EMPLOYEE OF THE STATE; AND

28 (3) A CONTRACTOR OR SUBCONTRACTOR EMPLOYED BY THE STATE.

29 (B) THE STATE AND PROVIDER ORGANIZATIONS MAY NOT INTERFERE WITH,
30 INTIMIDATE, RESTRAIN, COERCE, OR DISCRIMINATE AGAINST ANY FAMILY CHILD
31 CARE PROVIDER BECAUSE OF THE EXERCISE OF THE FAMILY CHILD CARE
32 PROVIDER'S RIGHTS TO JOIN OR REFUSE TO JOIN A PROVIDER ORGANIZATION.

33 27-112.

34 A PROVIDER ORGANIZATION MAY NOT CALL OR DIRECT A STRIKE.

1 27-113.

2 THIS TITLE SHALL NOT BE CONSTRUED TO MAKE FAMILY CHILD CARE
3 PROVIDERS EMPLOYEES OF THE STATE.

4 **Article - Tax - General**

5 10-716.

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

7 (2) "Federal child and dependent care credit" means the child and
8 dependent care credit properly claimed by an individual for the taxable year under §
9 21 of the Internal Revenue Code.

10 (3) "Qualifying individual" means a qualifying individual within the
11 meaning of § 21(b) of the Internal Revenue Code.

12 (b) An individual whose federal adjusted gross income for the taxable year
13 does not exceed [\$50,000] \$75,000, or [\$25,000] \$37,500 in the case of a married
14 individual filing a separate return, may claim a credit against the State income tax as
15 provided in this section for expenses paid by the individual during the taxable year
16 for the care of a qualifying individual.

17 (c) Subject to subsection (d) of this section, the credit allowed under this
18 section equals the lesser of:

19 (1) [32.5%] 75% of the federal child and dependent care credit; or

20 (2) the State income tax for the taxable year.

21 (d) (1) (I) If an individual's federal adjusted gross income for the taxable
22 year exceeds [\$41,000] \$30,000, the PERCENTAGE OF THE FEDERAL credit otherwise
23 allowed under SUBSECTION (C)(1) OF this section shall be reduced by [10% for each
24 \$1,000 or fraction of \$1,000] 5 PERCENTAGE POINTS FOR EACH \$2,500 OR FRACTION
25 OF \$2,500 by which the individual's federal adjusted gross income UP TO \$55,000
26 exceeds [\$41,000] \$30,000.

27 (II) IF AN INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME FOR
28 THE TAXABLE YEAR EXCEEDS \$55,000, THE CREDIT OTHERWISE ALLOWED UNDER
29 SUBSECTION (C)(1) OF THIS SECTION SHALL BE REDUCED BY 5 PERCENTAGE POINTS
30 FOR EACH \$5,000 OR FRACTION OF \$5,000 BY WHICH THE INDIVIDUAL'S FEDERAL
31 ADJUSTED GROSS INCOME EXCEEDS \$55,000.

32 (2) (I) In the case of a married individual filing a separate return, if
33 the individual's federal adjusted gross income for the taxable year exceeds [\$20,500]
34 \$15,000, the PERCENTAGE OF THE FEDERAL credit otherwise allowed under
35 SUBSECTION (C)(1) OF this section shall be reduced by [10% for each \$500 or fraction
36 of \$500] 5 PERCENTAGE POINTS FOR EACH \$1,250 OR FRACTION OF \$1,250 by which

1 the individual's federal adjusted gross income UP TO \$27,500 exceeds [\$20,500]
2 \$15,000.

3 (II) IN THE CASE OF A MARRIED INDIVIDUAL FILING A SEPARATE
4 RETURN, IF AN INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME FOR THE TAXABLE
5 YEAR EXCEEDS \$27,500, THE CREDIT OTHERWISE ALLOWED UNDER THIS SECTION
6 SHALL BE REDUCED BY 5 PERCENTAGE POINTS FOR EACH \$2,500 OR FRACTION OF
7 \$2,500 BY WHICH THE INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME EXCEEDS
8 \$27,500.

9 (e) The credit allowed under this section does not affect the treatment under
10 this title of any deduction or exclusion allowed under this title or allowed for federal
11 income tax purposes for expenses paid by the individual for the care of a qualifying
12 individual.

13 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the
14 provisions of Article 1, § 23 of the Annotated Code of Maryland, the provisions of this
15 Act are not severable, and if any provision of this Act or the application thereof to any
16 person or circumstance is held invalid for any reason in a court of competent
17 jurisdiction, no other provision or application of this Act may be given effect.

18 SECTION 3. AND BE IT FURTHER ENACTED, That Section 10-716 of the Tax
19 - General Article, as enacted by Section 1 of this Act, shall be applicable to all taxable
20 years beginning after December 31, 2005.

21 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 June 1, 2006.