

Chapter 704

(House Bill 1124)

AN ACT concerning

St. Mary's County Metropolitan Commission – Revisions and Corrections

FOR the purpose of repealing a requirement that each sanitary district in St. Mary's County be a separate taxing district; repealing a prohibition against a certain adverse effect as a result of a change of sanitary district lines; altering the notice requirements for certain water supply and sewerage system studies and plans; repealing a requirement that the County Commissioners of St. Mary's County make a certain decision; repealing a provision making the Mattapany District exempt from certain provisions of law; repealing a requirement that certain sums be repaid out of certain bonds issued for a particular sanitary district; altering the calculation of the total amount of certain bonds that the St. Mary's County Metropolitan Commission may issue; altering the procedures for retiring and paying the interest on certain bonds; altering the required procedures for bids for construction; altering the amount the Commission may expend on certain goods, materials, or services without advertising and receiving competitive bids; making it discretionary rather than mandatory that the Commission impose and collect a reasonable collection fee under certain circumstances; requiring a certain charge to apply uniformly to certain types of properties; authorizing the Commission to create additional uniform rates for certain other property classifications; repealing certain due dates for certain charges; authorizing certain services rates to include State or federally mandated fees or charges; repealing a requirement that the cost of a certain meter be at the sole expense of the Commission; renaming a certain benefit assessment to be a System Improvement Charge; establishing a right of entry to certain locations under certain circumstances; altering a certain exemption from a certain charge applied to church property; altering the properties for which the Commission is required to impose and collect a certain per equivalent dwelling unit (EDU) system improvement charge; requiring the Commission to impose and collect a certain per EDU system improvement charge at the same time the EDU is allocated; repealing a certain recordkeeping requirement; requiring a certain charge to be paid in perpetuity under certain circumstances when a property is acquired in a certain manner; requiring a certain court order to provide for payment for certain charges in a certain manner; altering the conditions under which a certain condemning authority is required to pay certain charges; making stylistic and technical changes; and generally relating to the St. Mary's County Metropolitan Commission.

BY repealing and reenacting, with amendments,
The Public Local Laws of St. Mary's County

Section 113–1 A., 113–3 B., 113–4, 113–5, 113–6 A., 113–7 A., 113–8, 113–12, 113–14 A. and C., 113–16 B., 113–19, 113–22, 113–26, 113–27 B. and C., and 113–29

Article 19 – Public Local Laws of Maryland

(2007 Edition and January 2011 Supplement, as amended)

BY repealing and reenacting, without amendments,

The Public Local Laws of St. Mary’s County

Section 113–14 B.

Article 19 – Public Local Laws of Maryland

(2007 Edition and January 2011 Supplement, as amended)

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

Article 19 – St. Mary’s County

113–1.

A. For the purpose of carrying out the provisions of this chapter, the sanitary districts created are under the jurisdiction of the Commission of seven (7) voting members and one (1) nonvoting member. Each voting member of the Commission shall be appointed by the Board of County Commissioners of St. Mary’s County as follows: one (1) member from each of the first, third, sixth, seventh and eighth districts, one (1) member from the second and ninth election districts and one (1) member from the fourth and fifth election districts. Each voting member shall reside in the election district he represents, be a resident taxpayer of the county and be a qualified voter. The voting members of the Commission shall be appointed [for a] **AND SHALL SERVE AT LEAST ONE (1)** three–year term and shall serve until their successors are appointed and have qualified. The nonvoting member of the commission shall be the commanding officer of the Patuxent River Naval Air Station or a designated representative of the commanding officer. The nonvoting member shall represent the interests of the United States Navy with respect to the water and sewer services provided by the Commission to the Patuxent River Naval Air Station and the Webster Field Annex. The nonvoting member shall serve until the succeeding commanding officer is appointed. If the commanding officer designates a representative, the representative shall serve at the pleasure of the commanding officer and may be replaced at any time. Those persons serving as members of the Commission immediately prior to June 1, 1976, shall continue to serve in their respective positions until the expiration of their terms. As the term of each voting member expires, his successor shall be appointed by the Board of County Commissioners of St. Mary’s County. Except for a nonvoting member, any vacancy in the membership of the Commission shall be filled by appointment by the Board of County Commissioners of St. Mary’s County for the unexpired term.

113–3.

B. The creation of the sanitary districts is adopted, approved, ratified and confirmed. The sanitary districts are designated and constituted for the purpose of this chapter to be separate sanitary districts[,] AND are subject to all of the provisions of this chapter [and are separate taxing districts for the purposes of this chapter].

113-4.

The sanitary district boundary lines of any sanitary district may be changed by the adoption by the Commission of a resolution which shall refer to a plat of St. Mary's County upon which the revised sanitary district lines are shown clearly and which sets forth findings that the change in the boundary lines of any sanitary district is necessary or desirable for the public health, safety and welfare of the residents within the revised sanitary districts and the revised sanitary districts are feasible from an engineering and financial standpoint. [However, outstanding bonds or other obligations may not in any manner be adversely affected by any change of sanitary district lines.] The resolution is not legally effective until it is approved by the County Commissioners of St. Mary's County after public hearing held following not less than ten (10) days' notice in one (1) or more newspapers having a general circulation in St. Mary's County and until a copy of the resolution and plat is recorded among the land records of St. Mary's County. Upon approval by the County Commissioners of St. Mary's County and filing of the plat and resolution as provided in this subsection, the revised sanitary districts are designated and constituted for the purpose of this chapter to be separate sanitary districts, are subject to all the provisions of this chapter [and are separate taxing districts]. The filing of the plat and resolution constitutes legal notice to the public of the action of the Commission and the County Commissioners.

113-5.

A. The Commission shall cause studies, plans and estimates to be made for water supply and sewerage systems in those portions of St. Mary's County in which the Commission determines that the facilities are necessary and may divide each sanitary district into water and sewerage districts in such a way as shall, in its judgment, best serve the needs of the various communities and shall promote convenience and economy of installation and operation. Whenever, and as, the studies and plans are completed, the Commission shall give notice by publication in one (1) newspaper published within the county for three (3) weeks [and by handbills posted and circulated in the localities where improvements are contemplated]. The Commission shall state in the notice the probable cost of the contemplated improvements and shall further state in it that plans of the improvements may be inspected at the Commission's office and that any person interested in the improvements will be heard by the Commission at a time to be specified in the notice, but not less than ten (10) days after first publication of it. If ten (10) residents and landowners in the sanitary district in which the improvements are contemplated, within ten (10) days after the last of the publications of the notice, file a petition with

the Commission protesting against the proposed improvements, the Commission shall grant them a hearing within fifteen (15) days after the petition is filed in the office of the Commission and after not less than five (5) days' notice of the time and place of the hearing by advertisement published in one (1) newspaper published within the county and by personal notices addressed to any one (1) or more persons whose names are signed to the petition. After due hearing, the Commission shall decide upon the reasonableness of the objections stated in the petition and shall dispose of them by written order concurred in by a majority of the Commissioners. The order shall be published in the same manner as notices are required to be published, and a copy of which shall be mailed to any one (1) or more of the petitioners. If the petitioners are not satisfied with the Commission's decision, they have the right to take and enter, within ten (10) days after the last publication of the order, an appeal to the County Commissioners of St. Mary's County, who shall review the Commission's decision and decide on the necessity and propriety of the improvements contemplated [and whether the district can stand the cost of them]. The decision of the County Commissioners is final.

[B. The foregoing provisions of this section are not applicable to the proposed sewer system, including necessary modifications and changes, for the Mattapany Sanitary District shown on the plats of the sanitary district recorded among the land records of St. Mary's County in Liber M.R.F. 1, Folios 2 to 5, inclusive, in a plat book indexed "St. Mary's County Metropolitan Commission," such proposed sewer system having been approved by the Commission and by the County Commissioners of St. Mary's County. The Commission, without further public hearing, may, in its discretion, proceed with the financing and construction of the sewer system.]

[C.]B. For the purpose of providing for the studies, plans, organization and any other expenses or costs of any water or sewerage facilities [in any sanitary district], the County Commissioners may furnish the Commission from time to time any sum that the County Commissioners deem proper, all of which shall be repaid out of the next bond issue, if any[, for the particular sanitary district]. If the County Commissioners do not expect bonds to be issued [for the particular sanitary district] within two (2) years of the date on which the sum is furnished to the Commission, the County Commissioners may waive repayment of the advances. The authority for advances granted by this subsection is in addition to other advances authorized by this chapter.

[D.]C. (1) For the purposes of carrying out the provisions of Subsection A of this section, after bona fide efforts to notify the owner and occupant, an agent or employee of the Commission may enter on any private land to make test borings and soil tests and obtain information related to the tests for the purpose of determining soil characteristics and suitability of the surface and subsurface of the land for the installation of public water supply or sewerage systems.

(2) If an agent or employee is refused permission to enter or remain on private land for the purposes authorized by subsection D(1), the Commission may apply to the St. Mary's County Circuit Court for an order directing that its agent or employee be permitted to enter and remain on the land to the extent necessary to carry out the purposes authorized by this subsection. The court may require that the Commission post a bond in an amount sufficient to reimburse any person for damages reasonably estimated to be caused by test borings, soil tests and related activities.

(3) If any person enters on any private land under the authority of this subsection or of any court order passed pursuant to it and damages or destroys any land or personal property on it, the owner of the property has a cause of action for damages against the Commission.

(4) Any person who knows of an order issued under this subsection and who obstructs any agent or employee acting under the authority of the order may be punished for contempt of court.

113-6.

A. For the purpose of providing funds for the design, construction, establishment, purchase or condemnation of water supply and sewerage systems in any of the sanitary districts, the Commission, upon the approval of the County Commissioners of St. Mary's County, is authorized and empowered to issue bonds, from time to time, upon the full faith and credit of St. Mary's County, in such amounts as it may deem to be necessary to carry on its work, but at no time shall the total issue of bonds [in any sanitary district] for all purposes under this chapter exceed twenty-five (25) percent of the total value of the property assessed for county taxation purposes within **ALL OF** the sanitary [district] **DISTRICTS IN WHICH PUBLIC WATER OR SEWER FACILITIES ARE LOCATED**. Subject to the conditions contained herein, the form, tenor, manner of selling and all other matters relating to the issuance of bonds under this chapter shall be prescribed in a resolution to be adopted by the St. Mary's County Metropolitan Commission prior to sale of the bonds. The issuance of such bonds may not be subject to any limitations or conditions contained in any other law, and the Commission may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Commission and the County Commissioners of St. Mary's County. The bonds shall be serial bonds issued upon the serial maturing plan and in such denominations as shall be determined by the Commission. The bonds may be redeemable before maturity at the option of the Commission at such price and under such terms and conditions as may be fixed by the Commission prior to the issuance of the bonds, shall bear interest at such rate or rates payable semiannually, as shall be determined by a resolution of the St. Mary's County Metropolitan Commission adopted prior to the delivery of the bonds, and shall mature in not more than thirty (30) years after date of issue and shall be forever exempt from state, city and county taxation as hereinafter provided. They shall be issued under the signature and seal of the Commission and shall be unconditionally guaranteed as to payment of both principal and interest by the County

Commissioners of St. Mary's County, a political subdivision of the State of Maryland, which guaranty shall be endorsed on each of the bonds in the following language: "The payment of interest when due and the principal at maturity is guaranteed by the County Commissioners of St. Mary's County, Maryland." Such endorsement shall be signed on each of the bonds by the President and by the Clerk of the Board of County Commissioners of the county, or another person lawfully assigned to the functions of the Clerk, within ten (10) days after the bonds are presented by the Commission to them for endorsement.

113-7.

A. For the purpose of retiring the bonds authorized to be issued by this chapter and of paying the interest thereon, the Commission, **BY AND THROUGH THE COUNTY COMMISSIONERS OF ST. MARY'S COUNTY**, shall cause to be levied, against all assessable property within the sanitary districts [for which the bonds have been issued, by the County Commissioners of St. Mary's County, annually] **IN WHICH PUBLIC WATER OR SEWER FACILITIES ARE LOCATED**, so long as any of the bonds are outstanding and not paid, [a] **AN ANNUAL** tax sufficient to provide the sum which the Commission may deem sufficient and necessary, in conjunction with any amounts as the Commission may estimate that it will be able to collect out of the [benefit assessments] **SYSTEM IMPROVEMENT CHARGES, CAPITAL CONTRIBUTION CHARGES**, and charges levied by it but not yet paid and any further funds then available for the purpose, to meet the interest on the bonds as it becomes due and to pay the principal thereof as the bonds mature. The tax shall be determined, levied, collected and paid over in the manner following, that is to say, at least seventy-five (75) days before July 1 of each year, the County Commissioners shall certify to the Commission the whole valuation of the assessable property within [each sanitary district] **THE SANITARY DISTRICTS IN WHICH PUBLIC WATER OR SEWER FACILITIES ARE LOCATED**. The Commission shall then determine in the manner above prescribed the amount which it deems necessary to be raised during the ensuing year for the payment of interest on outstanding bonds and principal of all serial bonds maturing in the year, and after deducting all amounts in hand, or in contemplation, applicable to payments of the principal of and interest on the bonds as hereinbefore and hereinafter in the chapter provided, it shall determine the number of cents per one hundred dollars (\$100.00) necessary to raise the amount [for each such sanitary district] **NEEDED** and shall certify same to the Board of County Commissioners at least sixty (60) days before July 1 of each year. The County Commissioners in their next annual levy shall levy the tax on all land and improvements and all other property assessed for county tax purposes within the [respective sanitary district,] **SANITARY DISTRICTS IN WHICH PUBLIC WATER OR SEWER FACILITIES ARE LOCATED**, which tax shall be levied and collected and have the same priority rights, bear the same interest and penalties and in every respect be treated the same as county taxes. The tax so levied for the ensuing year shall be collected by the tax collecting authorities, and every one hundred twenty (120) days they shall remit the whole amount of the tax so collected to the Commission. From the money so received,

together with the amount in hand to the credit of fund or funds for the payment of the principal of and interest on the bonds, the Commission shall first pay all of the principal of and interest on the bonds as it becomes due and shall then deposit the residue of the moneys in some bank or banks in the county to the joint credit of the County Commissioners and the Commission. The Commission is authorized to pay the interest on any bonds it may issue out of the proceeds of the sale of the bonds, but not more than two (2) years' interest may be expended. Nothing contained in this section or in this chapter shall be construed as in any manner relieving the County Commissioners of St. Mary's County of its unconditional pledge of its full faith and credit and unlimited taxing power to the payment of principal of and interest on any bonds issued by the Commission pursuant to Section 161.

113-8.

Whenever the studies and plans for water supply or sewerage systems for any sanitary district shall have been completed and the Commission shall have decided, after opportunity for a hearing has been given, to proceed with the construction thereof, it shall advertise, by notice in one (1) newspaper published in St. Mary's County and such newspapers and technical press as it may deem proper, for bids for the construction of said system or systems, in part or as a whole, as in its judgment may appear advisable. The contract shall be let to the lowest responsible bidder or the Commission may reject any and all bids, and if, in its discretion, the prices quoted are unreasonable or unbalanced, it may readvertise the work or any part of it, or may do **OR CAUSE TO BE DONE** any part or all of the work by [day labor, provided that at any time] **the COMPETITIVE PROCUREMENT OF GOODS, MATERIALS, OR SERVICES.** **THE** Commission [may, in its discretion,] **MAY NOT** expend [for day labor for construction work] **ON THE GOODS, MATERIALS, OR SERVICES** an amount [not] exceeding [five] **TEN** thousand dollars [(\$5,000.00)] **(\$10,000)** without **HAVING PROCURED THOSE GOODS, MATERIALS, OR SERVICES BY** advertising [or] **AND** receiving **COMPETITIVE** bids. All such contracts shall be protected by such bonds, penalties and conditions as the Commission may require, all of which shall be enforced in any court having jurisdiction.

113-12.

- A. (1) In this section, the following words have the meanings indicated.
- (2) **CAPITAL CONTRIBUTION CHARGE** means an amount based on capital costs that is imposed and collected on a new **EDU** connection to a water supply or sewerage system under this Chapter.
- (3) **CONNECTION CHARGE** means a [capital contribution charge] **CAPITAL CONTRIBUTION CHARGE** or connection fee.

(4) **CONNECTION FEE** means an amount based on the cost of connection that is imposed on a new connection to a water supply or sewerage system under this Chapter.

(5) **EDU** means an equivalent dwelling unit.

(6) **PUBLICATION** means notice to all persons having any interest in the property.

B. (1) For every new water or sewer connection made under this Chapter, the Commission [shall] **MAY, IN ITS SOLE DISCRETION**, impose and collect a reasonable connection fee, that is not less than the actual cost of connection.

(2) The connection fee shall be uniform throughout a designated service area for connections of those sizes and classes for which average costs reasonably may be ascertainable, and for all other connections, the connection fee shall be an amount not less than the actual cost of the connection.

(3) The Commission may revise the connection fee annually.

(4) Connection fees collected by the Commission shall be applied to paying the actual cost of the connections.

(5) The connection fee shall be due and payable to the Commission at the time the property owner makes an application or is otherwise required to connect to a water main or sewer.

(6) If the property owner fails to make the connection by the time required by the Commission as set forth in § 113–10 of this Chapter, the connection fee shall become due and payable on the connection deadline date, shall be assessed immediately, and shall be subject to the rules of collection provided in subsection D of this section.

C. (1) In addition to the connection fee, the commission shall impose and collect a [capital contribution charge] **CAPITAL CONTRIBUTION CHARGE** for each new EDU connected to a water supply or sewerage system under this Chapter.

(2) The [capital contribution charges] **CAPITAL CONTRIBUTION CHARGES** collected shall be used by the Commission to pay:

(A) The capital costs of construction new water supply or sewer collection systems, to the extent that the projects are identified in the Commission's six-year capital improvement plan;

(B) The capital cost of central treatment facility capacity expansion, as the projects are identified in the Commission's six-year capital improvement plan;

(C) Existing bonds issued as of October 1, 2007, to fund the costs of central treatment facility capacity expansions, but limited to that portion of existing debt corresponding to any unallocated capacity that exists on October 1, 2007; and

(D) Existing bonds issued as of October 1, 2007, to fund the costs of constructing water supply or sewer collection systems, but limited that portion of existing debt corresponding to any unallocated capacity that exists on October 1, 2007.

(3) (A) The [capital contribution charge] **CAPITAL CONTRIBUTION CHARGE** shall be assessed on a per EDU basis and shall be a uniform charge assessed equally to **PROPERTIES OF SIMILAR CLASSIFICATION THROUGHOUT** all sanitary districts. **THERE SHALL BE A UNIFORM RATE APPLICABLE TO RESIDENTIAL PROPERTIES AND A UNIFORM RATE APPLICABLE TO COMMERCIAL PROPERTIES. THE COMMISSION MAY CREATE ADDITIONAL UNIFORM RATES FOR OTHER PROPERTY CLASSIFICATIONS THAT THE COMMISSION CONSIDERS NECESSARY AND APPROPRIATE.**

(B) The Commission may revise the [capital contribution charge] **CAPITAL CONTRIBUTION CHARGE** annually.

(C) The [capital contribution charge] **CAPITAL CONTRIBUTION CHARGE** shall be due and payable to the Commission at the time a property owner makes an application or otherwise is required to connect to a water main or sewer.

(D) If the property owner fails to make the connection by the date required by the Commission as set forth in § 113-10 of this Chapter, the [capital contribution charge] **CAPITAL CONTRIBUTION CHARGE** shall:

(I) Become due and payable on the connection deadline date;

(II) Be assessed immediately; and

(III) Be subject to the same rules of collection provided in subsection D of this section.

(4) For purposes of determining the [capital contribution charge] **CAPITAL CONTRIBUTION CHARGE**, the capital costs referred to in paragraphs (2)(A) and (B) of this subsection shall include the principal of, interest on, and any

redemption premium or other costs with respect to any bonds of the Commission issued after October 1, 2007.

(5) (A) When bonds have not been issued at the time the [capital contribution charge] **CAPITAL CONTRIBUTION CHARGE** is calculated, the Commission may, in calculating the [capital contribution charge] **CAPITAL CONTRIBUTION CHARGE**, establish a schedule for the principal of, interest on, and other costs of bonds the Commission plans to issue.

(B) The schedule and related [capital contribution charge] **CAPITAL CONTRIBUTION CHARGE** provided in subparagraph (A) of this paragraph may be adjusted by the Commission when planned future bonds are issued.

D. (1) The connection charges set forth in subsections B. and C. of this section shall be payable at the Office of the Commission at a time that is determined by the Commission.

(2) If any connection charges remain unpaid for a period of thirty (30) days after the payment is due, in addition to any other charges, the Commission may impose a late charge not to exceed one and one-half (1 1/2) percent per month until all delinquent charges are paid.

(3) If all or any part of a connection charge remains unpaid after thirty (30) days after the due date of payment, the entire unpaid connection charge shall be overdue and in default, at which time the Commission may proceed to enforce payment.

(4) Any statute of limitations to the contrary notwithstanding, and subject only to prior State and County taxes, the connection charge shall be a first lien on the property against which it is assessed until paid.

(5) For purposes of collection:

(A) The connection charges shall be treated as County taxes and be advertised in the same manner as and with County taxes;

(B) All property subject to the connection charges shall be sold for the connection charges at the same time and in the same manner as the properties are sold for County taxes; and

(C) Applicable laws relating to the collection of County taxes shall relate to the collection of the connection charges.

(6) Property redeemed from a County tax sale and property sold by the County Commissioners after a final tax sale may not be redeemed or sold until the connection charges due on it are paid.

(7) To give notice to the general public of existing liens and charges against any property within any sanitary district abutting on any water or sewer main, the Commission shall keep a public record of all names of owners of property, locations of the property, lot numbers when of record, and the amount of the connection charges or other charges that may become liens.

(8) The records shall be kept in the land records of St. Mary's County, and the Clerk of the Circuit Court for the County shall furnish space necessary to keep and preserve the records, that, when recorded in the public record, are legal notice of all existing liens within any sanitary district.

(9) If any liens, connection charges, or other charges remain unpaid for thirty (30) days after becoming overdue, they may be collected by an action to enforce the liens, and any judgment or decree obtained shall have the force and effect of a judgment in personam.

(10) The Commission may file an action to enforce the liens against the owner of record at the time the levy was made, or the owner of record at the time the suit is filed, or any owner of record between these dates.

E. [(1)] For property owners who elect to defer connection under section 113-10B of this Chapter, the connection charges described in this section shall include an additional cost reflecting the delay in connection.

[(2)] The connection fee and the capital contribution charge are due when the property owner applies, or as otherwise required, to connect to a water main or sewer.

(3) For new development, the applicable charges will become due at the same time the public works agreement becomes executed.]

113-14.

A. For the purpose of providing funds for maintaining, repairing and operating its water supply and sewerage systems, for line extensions of them, for its administrative and other expenses, including proper depreciation allowances, if any, and for interest on and the retirement of bonds as specified in this chapter, the Commission may make service rates, as it deems necessary, on water lines and sewers chargeable against all properties having a connection with any water pipe or sewer pipe under its supervision or ownership. **THE SERVICE RATES MAY INCLUDE ANY STATE OR FEDERALLY MANDATED FEES OR CHARGES.** The rate for both water and sewer service shall be uniform throughout a sanitary district, subject to changes that the Commission considers necessary. Beginning on July 1, 1993, the rate for both water and sewer service shall be uniform throughout all sanitary districts, subject to changes that the Commission considers necessary. However, where the Commission

provides service to property in an area in which it is economically not feasible to provide service at the uniform rate because of the distance of the area from the principal facilities of the Commission, the Commission may classify the property as a remote area and may impose an additional service charge to meet the additional cost of providing service to the property. The Commission may collect a reasonable deposit in advance of furnishing water or sewerage service. The Commission shall begin the assessment of water and sewer service rates either at the time of the connection of all spigots or hydrants, toilets, and waste drains to a water main or sewer or on the expiration of the deadline for connection as required by the Commission in accordance with § 113–10 of this Article, whichever occurs first.

B. The sewer service rates shall be reasonable and shall be charged to all properties being served in a given sanitary district.

C. The water service charge shall consist of a minimum or ready-to-serve charge, which shall be based upon the size of the meter on the water connection leading to the property, and of a charge for water used, which shall be based upon the amount of water passing through the meter in excess of any water included in the minimum or ready-to-serve charge during the period between the last two (2) readings. The meter shall be placed on water connections as determined by [and at the sole expense of] the Commission. If the Commission at any time determines not to have meters installed in all the properties in a given sanitary district that are connected to the system, then a reasonable flat rate, as determined by the Commission, shall be charged to all properties in which meters have not been installed. This rate shall be uniform within a sanitary district.

113–16.

B. From and after payment to the proper parties of the agreed purchase price, or other amounts found to be due by the Commission, the Commission may take possession of, maintain and operate the system, whether private or municipal, as part of its general system. From the date of the payment, all properties along the line of any water main or sewer of the system as acquired shall stand in the same relation, bear the same [benefit assessment] **SYSTEM IMPROVEMENT CHARGE** and be subject to the same regulations and penalties as though the system so acquired had been constructed and put into operation by the Commission under the provisions of this chapter. However, a building or premises actually connected in an adequate manner with the acquired system at the time of its purchase may not be required to pay any connection charge.

113–19.

A. Any employee or agent of the Commission shall have the right of entry, at all reasonable hours, upon any private premises and into any building in any sanitary district while in pursuit of his official duties, upon first presenting proper credentials from the Commission.

B. WHILE IN PURSUIT OF OFFICIAL DUTIES, ANY EMPLOYEE OR AGENT OF THE COMMISSION SHALL HAVE A RIGHT OF ENTRY INCLUDING REASONABLE VEHICULAR INGRESS TO AND EGRESS FROM ANY COMMISSION PUMPING STATION, ELEVATED WATER STORAGE TANK, WELL, OR OTHER RELATED OR APPURTENANT EQUIPMENT.

C. Any restraint or hindrance offered to the entry, **ACCESS, INGRESS, OR EGRESS** by any owner or tenant **OF ANY AFFECTED PROPERTY**, or agent of the owner or tenant, or any other person is a misdemeanor punishable under Section 176.

113-22.

Any land owned by a church and constituting the premises occupied by a church or its parsonage and used exclusively for public worship or for other religious or customary purposes of a church or parsonage and not for investment, gain or other secular purposes shall be exempt from the [benefit assessments] **EQUIVALENT OF THREE (3) EDUS OF SYSTEM IMPROVEMENT CHARGES** provided for by this chapter [in respect of a frontage of not exceeding one hundred fifty (150) feet]. The Commission, in its discretion to be exercised in each individual case, may grant or withhold a further exemption [of the land so owned and used in respect of any frontage thereof in excess of one hundred fifty (150) feet hereinbefore provided for].

113-26.

For any services rendered by the Commission to sanitary districts in which it neither owns nor operates a water or sewerage system at the request of or with the approval of the County Commissioners, the Commission shall render a bill to the County Commissioners for the cost of the services. For any other services rendered by the Commission to the County at the request of or with the approval of the County Commissioners, the Commission shall render a bill to the County Commissioners for the cost of the services, less one-tenth (1/10) of those costs for each sanitary district in which the Commission owns and operates a water or sewerage system. The County Commissioners shall make provision for the payment of those bills [by the Treasurer of St. Mary's County] upon proper verification of the costs incurred.

113-27.

B. Nothing contained in any amendment to this chapter effective June 1, 1976, shall be construed as impairing the validity of any proceedings or action taken under the provisions of this chapter prior to that date. All such proceedings taken under this chapter, including without limitation the creation and enlargement of any sanitary districts and the establishment and imposition of [benefit assessments] **SYSTEM IMPROVEMENT CHARGES** and charges (whether pursuant to this chapter alone or pursuant to Article 43 of the Annotated Code of Maryland as authorized by §

427A of Article 43) are ratified, validated and confirmed. The authorization, sale and issuance of all bonds and bond anticipation notes issued prior to that date by the St. Mary's County Metropolitan Commission are ratified and confirmed, and all such bonds and bond anticipation notes are validated as being validly authorized, sold and issued.

C. The determination and imposition of [benefit assessments] **SYSTEM IMPROVEMENT CHARGES** and other charges by the St. Mary's County Metropolitan Commission since its creation are expressly ratified, validated and confirmed, including without limitation those schedules of [benefit assessments] **SYSTEM IMPROVEMENT CHARGES** and charges determined, imposed and placed in effect on the following dates:

- (1) Mattapany Sanitary District: January 9, 1969; October 1, 1970; July 1, 1971.
- (2) Pine Hill Run Sanitary District No. 8: October 1, 1973; July 1, 1975.
- (3) Leonardtown Sanitary District No. 3: July 1, 1975.
- (4) Indian Creek Sanitary District No. 10: July 1, 1975.
- (5) Luckland Run Sanitary District No. 1: January 1, 1976.

113–29.

A. (1) In this section, the following words have the meanings indicated:

- (2) EDU means an equivalent dwelling unit.
- (3) PUBLICATION means notice to all persons having any interest in the property.

B. (1) For every property, whether improved or unimproved, [binding on a street, road, lane, alley, right-of-way or easement in which a Commission water distribution system or sewerage system has been built,] **TO WHICH AN EDU HAS BEEN ALLOCATED FOR PUBLIC WATER OR SEWER SERVICE BY THE ST. MARY'S COUNTY OFFICE OF LAND USE AND GROWTH MANAGEMENT**, the Commission shall impose and collect ON a per EDU [system improvement charge for every EDU allocated by the St. Mary's County Office of Land Use and Growth Management] **BASIS, A SYSTEM IMPROVEMENT CHARGE.**

- (2) System [improvement charges] **IMPROVEMENT CHARGES** shall:

- (A) Be assessed and payable on a monthly basis; and
- (B) Be uniform and apply to every EDU equally.

(3) System [improvement charges] **IMPROVEMENT CHARGES** shall be used by the Commission to pay the costs associated with:

(A) The capital costs of central treatment facility performance upgrades, if the projects are identified in the Commission's six-year capital improvement plan;

(B) The capital costs of the repair and replacement of existing water supply and/or sewer collection systems, if the projects are identified in the Commission's six-year capital improvement plan; and

(C) That portion of existing bonds, as of October 1, 2007, that was issued to fund the costs of repair, replacement and, where appropriate, construction of existing water supply or sewer collection systems and bonds issued to fund the costs of capital treatment facility capacity allocated to existing system users as of October 1, 2007.

(4) In determining the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE**, the capital costs referred to in subsection B.(3) of this section shall include the principal of, interest on, and any redemption premium or other costs with respect to any bonds of the Commission issued after October 1, 2007.

(5) (A) When bonds have not been issued at the time the [capital contribution charge] **SYSTEM IMPROVEMENT CHARGE** is calculated, in calculating the [capital contribution charge] **SYSTEM IMPROVEMENT CHARGE**, the Commission may establish a schedule for the principal of, interest on, and other costs of bonds the Commission plans to issue in accordance with paragraph (4) of subsection H. of this section.

(B) The Commission may adjust the schedule and related [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** provided in subparagraph (A) of this paragraph when planned future bonds are issued.

C. (1) When collected, the [system improvement charges] **SYSTEM IMPROVEMENT CHARGES** shall be placed, by the Commission, into an interest-bearing account containing all of the [system improvement charges] **SYSTEM IMPROVEMENT CHARGES** collected, notwithstanding the sanitary district from which the [charge] **CHARGE** was collected.

(2) The [system improvement charges] **SYSTEM IMPROVEMENT CHARGES**, together with any interest accrued on the charges, shall remain in the

general account, to be assessed and used by the Commission on an as-needed basis to fund the costs of any extensive system repair and replacement and central facility upgrade, as described in subsection B. of this section, in any sanitary district within which a system repair or replacement may be needed.

D. (1) When the Commission determines the appropriate [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** for a given property, the Commission shall classify each property into one (1) of the following seven (7) classes:

- (A) Agricultural;
- (B) Small acreage;
- (C) Industrial or business;
- (D) Subdivision residential;
- (E) Multi-unit residential;
- (F) Multi-unit business; or
- (G) Institutional.

(2) The Commission may subdivide each of the classes in any manner it considers to be in the public interest.

(3) Immediately after an [ESU] **EDU** is allocated for water or sewer service, the Commission shall initiate collection of the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** in accordance with the property classification.

(4) The Commission shall notify, in writing, all owners of the properties as to:

- (A) Under which class their respective properties fall;
- (B) The amount of the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** imposed on the property; and
- (C) A time and place for a public hearing on the classification.

(5) The notice shall:

- (A) Be mailed to the last known address of the owner;
- (B) Be served in person on any adult occupying the premises; or

(C) In the case of vacant or unimproved property, be posted on the premises.

(6) The classification of any property made by the Commission is final, and may only be changed:

(A) At the public hearing held in accordance with this subsection; or

(B) If the use of the property changes.

(7) The [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** shall be imposed for both water supply and sewerage facilities, whether constructed, purchased, established or otherwise acquired, and shall be [assesses] **ASSESSED** as a uniform per [ESU] **EDU** charge for each class of property.

E. (1) Whenever, through error, inadvertence or oversight or by reason of any judgment or decree, any property subject to a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** under this chapter has not had the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** imposed against it, or where it has been imposed by an erroneous description or in the wrong name, or where service on the owner has not [be] **BEEN** had, or where it has been set aside by judgment or decree, the Commission, on the discovery of the error, inadvertence or oversight, or within a reasonable time after the rendition of the judgment or decree, the Commission, may impose and collect the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** at the uniform rate and in the applicable property classification.

(2) The subsection applies to all errors, omissions, or mistakes made previously by the Commission or to any judgment or decree rendered previously.

(3) Appropriate adjustments for any payments shall be made in respect to that property.

F. (1) When there is more than one (1) contiguous lot in the same block under one (1) ownership appurtenant to a single residence, the Commission shall impose the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** based on the number of [EDU's] **EDUS** assigned to each property in accordance with all applicable zoning and land use regulations.

(2) (A) Land classified as agricultural by the Commission, when in actual use for farming or trucking purposes, may not be subject to the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** when the agricultural land

has constructed through it or in front of it a sewer or water main, **IF** a water or sewer connection is **NOT** made.

(B) When a water or sewer connection is made and is for every EDU connected the land shall become subjected to the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE**.

(3) Public parks or playgrounds owned by a municipal corporation and any property or building owned by either a regularly organized volunteer fire department or a volunteer rescue squad are exempt from the imposition of a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** while used for public purposes.

(4) If property in the sanitary district is, at the time of construction of a Commission water line or sanitary sewer line, connected to a public water system or public sewer system operated either by a municipal corporation or by a water or sewer company subject to the requirements of the State Department of Health and Mental Hygiene, or if following construction of the Commission line the property is connected to the other specified public system in accordance with the Commission, the property is exempt from the imposition and collection of a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** until it is served by or connected to the Commission's water supply or sanitary sewerage system, as the case may be.

(5) When a property that has been exempted from a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** under this subsection is no longer exempted from the charge, the property shall be classified in its then current class and become subject to the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE**.

G. (1) Except as otherwise provided, [system improvement charges] **SYSTEM IMPROVEMENT CHARGES** for water supply and sewer construction and acquisition shall be uniform for each EDU within each class of property throughout the County for any one (1) year.

(2) The Commission shall determine the amount of the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** per EDU within each class of property for both water and sewer service as costs and conditions require, but a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** for any class of property for any given year once levied by the Commission may not be increased.

H. (1) The rate of the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** shall be based on the Commission's six-year capital improvement plan, as revised annually.

(2) The capital improvement plan shall identify those capital projects which will be undertaken by the Commission during the most immediate six-year period, including any comprehensive improvement or replacement of existing water or wastewater systems and central treatment and processing facility expansions and upgrades.

(3) To calculate the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE**, the total of all debt service on bonds and the total of amortized costs of all projects in the capital improvement budget for the given year, both totals excluding any costs included in the capital improvement charge under § 113-12 of this Chapter, shall be combined and divided by the total of the number of allocated EDUs and the number of EDUs expected to be allocated by the St. Mary's Office of Land Use and Growth Management for a given year.

(4) Where amortized costs are included in the calculation of the charge, the Commission shall establish the period of amortization and the interest rate.

(5) The [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** may not be revised more than once each year, together with the annual revision to the capital improvement plan.

I. (1) (A) In this subsection the following words have the meaning indicated:

(B) **DWELLING** means a principal residence of a homeowner and includes the lot on which the house is situated.

(C) **HOMEOWNER** means a person who:

(I) Resides in a dwelling; and

(II) Has an ownership interest in the dwelling, including a life estate, joint tenancy, tenancy in common, tenancy by the entirety, or fee simple interest.

(D) **PRINCIPAL RESIDENCE** means a house that is occupied by a homeowner:

(I) For more [that] **THAN** six (6) months of a consecutive 12-month period that includes the date of application for a deferral of a [capital contribution charge] **SYSTEM IMPROVEMENT CHARGE**; or

(II) For less than six (6) months of a consecutive 12-month period that includes the date of application for a deferral of a [capital contribution charge] **SYSTEM IMPROVEMENT CHARGE** due to illness or the need of

special care, if the homeowner is otherwise qualified under the provisions of this subsection.

(2) The Commission may establish financial criteria to determine the eligibility of a homeowner whose dwelling is subject to a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** under this section for a deferral of the monthly payment of that charge.

(3) The Commission may defer the monthly payment of a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** on the dwelling of a homeowner who:

(A) Files an application with the Commission; and

(B) Meets the financial eligibility criteria that the Commission establishes.

(4) A homeowner who applies for a deferral [or] **OF** payment of a monthly [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** levied on a dwelling shall submit to the Commission an application of the form that the Commission provides.

(5) A homeowner may apply for deferral on only one (1) dwelling.

(6) A homeowner who applies for deferral of payment of a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** shall apply at the time of payment of monthly service charges.

(7) Subject to paragraph (3) of this subsection, the Commission shall terminate the deferral of payment of a monthly [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** if a homeowner dies, sells, or alienates the dwelling subject to the deferral.

(8) The Commission may defer the monthly payment of a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** by an unmarried, surviving spouse on the death of a homeowner or the unmarried, former spouse on the divorce of a homeowner if the succeeding spouse qualifies under the provisions of paragraph (3) of this subsection.

(9) When the Commission terminates the deferral of payment of a monthly [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** under the provisions of paragraph (7) of this subsection:

(A) All deferred charges, with interest calculated on the cumulative annual payments for the deferral period, shall become [use] **DUE** and payable immediately; and

(B) The annual levy of [system improvement charge] **SYSTEM IMPROVEMENT CHARGES** shall resume.

(10) (A) A deferred [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** that is due and payable on termination of a deferral by the Commission is a lien against the dwelling in accordance with subsection L. of this section.

(B) After the Commission terminates the deferral of payment of a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** under paragraph (7) of this subsection, the provisions of this subsection do not impair in any way the ability of the Commission to collect [a system improvement charge] **A SYSTEM IMPROVEMENT CHARGE** that is overdue and in default from a homeowner in accordance with subsection L. of this section.

(11) The Commission may require a homeowner who qualifies for deferral under this section to requalify at times and under circumstances that the Commission determines are reasonable and necessary.

(12) (A) The Commission may only implement the provisions of this subsection by adoption of a resolution of the Commission.

(B) The Commission shall hold a public hearing at least ten (10) days prior to any action on the proposed resolution under this paragraph.

(C) The Commission shall publish notice of the public hearing, together with a synopsis of the proposed resolution, in at least one (1) newspaper of general circulation in St. Mary's County once each week for two (2) successive weeks prior to the public hearing.

J. (1) On the allocation of an EDU, the Commission may permit a connection with a water main or sewer by a property owner whose property does not abut on the water main or sewer and who has not previously paid a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** for the construction of the water main or sewer.

(2) If the Commission permits a connection with a water main or sewer under this subsection, the Commission shall classify the property and determine the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** to be paid by the property owner.

(3) If a connection is made under this subsection, the property owner and property, for all charges, rates and benefits, shall stand in every respect in the same position as if the property abutted on a water main or sewer.

K. (1) When an applicant applies for water or sewer lines in an area in which the Commission determines that it is economically not feasible to serve unless the applicant makes a substantial contribution to the cost of construction of the water and sewer lines, including the cost of connecting them with the Commission's system, the Commission may classify the applicant's property, together with other adjacent or adjoining properties that could be readily served from the construction required by the applicant, as a "remote area."

(2) If the Commission approves an application for water and sewer lines and the applicant makes a contribution to the cost of construction in accordance with this subsection, the Commission may construct the water or sewer lines required by the applicant.

(3) If the Commission constructs the water or sewer lines, it shall impose a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** in accordance with this section.

L. When the Commission improves a water system or sanitary sewerage system by replacing, augmenting, ungrading, or expanding it in order to provide increased or improved water or sewer service and the necessity for the improvement arises from changes, whether individually or cumulatively, in use or zoning category of the property, those properties shall derive a benefit from the improved facility and the Commission shall impose [system improvement charges] **A SYSTEM IMPROVEMENT CHARGE** on the benefited property for the construction as part of the water or sewer system services.

M. (1) The [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** shall be payable at the Office of the Commission at a time that the Commission determines.

(2) If any charges remain unpaid for a period of thirty (30) days after the payment is due, in addition to any other charges, the Commission may impose a late charge not to exceed one and one-half (1 1/2) percent per month until all delinquent charges are paid.

(3) The entire unpaid [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** shall be overdue and in default after thirty (30) days after the payment is due for all or any part of the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** required by the Commission, at which time the Commission may proceed to enforce payment.

(4) Any statute of limitations to the contrary notwithstanding and subject only to prior State and County taxes, the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** shall be a first lien on the property against which it is assessed until paid.

(5) For purposes of collection:

(A) The [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** shall be treated as County taxes and be advertised in the same manner as and with County taxes;

(B) All property subject to the [system improvement charges] **SYSTEM IMPROVEMENT CHARGE** shall be sold for system improvement charges at the same time and in the same manner as the properties are sold for County taxes; and

(C) Applicable laws relating to the collection of County taxes shall relate to the collection of the [system improvement charges] **SYSTEM IMPROVEMENT CHARGES**.

(6) Property redeemed from a County tax sale and property sold by the County Commissioners after a final tax sale may not be redeemed or sold until the [system improvement charges] **SYSTEM IMPROVEMENT CHARGES** are paid.

(7) To give notice to the general public of existing liens and charges against any property within any sanitary district abutting on any water or sewer main, the Commission shall keep a public record of all names of owners or property, locations of the property, lot numbers when of record, and the amount of the [system improvement charges] **SYSTEM IMPROVEMENT CHARGE**, water service charges, or that may become liens.

[(8)] (8) The records shall be kept in the Land Records of St. Mary's County, and the Clerk of the Circuit Court for the County shall furnish space necessary to keep and preserve the records, which, when recorded in the public record, is legal notice of all existing liens within any sanitary district.]

[(9)] (8) If any liens, [system improvement charges] **SYSTEM IMPROVEMENT CHARGES** or other charges remain unpaid for thirty (30) days after becoming overdue, they may be collected by an action to enforce the liens, and any judgment or decree obtained shall have the force and effect of a judgment in personam.

[(10)] (9) The Commission may file an action to enforce the liens against the owner of record at the time the levy was made, or the owner of record at the time the suit is filed, or any owner of record between these dates.

N. (1) All [system improvement charges] **SYSTEM IMPROVEMENT CHARGES** collected by the Commission shall be set aside in a separate fund to be known and designated [at] **AS** the “Metropolitan District Account.”

(2) In order to determine the amount which it considers necessary to be imposed under § 113–7 of this Chapter, the Commission shall deduct the amount it estimates that it will be able to collect from the [system improvement charges] **SYSTEM IMPROVEMENT CHARGES** and other charges previously imposed by it, but not yet paid and to be set aside for the interest and principal payments and the amount of funds then available for the purpose of paying the principal of and interest on outstanding bonds, from the whole amount necessary to be raised in any one (1) year for interest and principal payments on outstanding bonds.

(3) The balance then remaining to be raised shall be the amount to be certified to the County Commissioners of St. Mary’s County for collection by taxation as provided by § 113–7 of this Chapter.

O. (1) If the State, County, or any municipal corporation, commission, board, or agency of the State or County acquires for public use property that is subject to a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** levied by the St. Mary’s Metropolitan Commission, the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** shall **CONTINUE TO** be paid [through the date of acquisition and extinguished thereafter] **IN PERPETUITY**.

(2) If [the] **ANY** property **SUBJECT TO A SYSTEM IMPROVEMENT CHARGE** is acquired as provided in this section without eminent domain proceedings, the [amount necessary to pay the system improvement charge through the date of acquisition shall be paid to the Commission before the deed evidencing the transfer may be recorded among the Land Records of St. Mary’s County] **SYSTEM IMPROVEMENT CHARGE SHALL CONTINUE TO BE PAID IN PERPETUITY**.

(3) If [the] **ANY** property **SUBJECT TO A SYSTEM IMPROVEMENT CHARGE** is acquired through eminent domain proceedings, the Commission shall be named a party to the proceeding [the Jury shall make a separate award in favor of the Commission for the sum required to pay the system improvement charge through the date of acquisition] **IF NECESSARY, AND THE FINAL ORDER SHALL REQUIRE THAT THE SYSTEM IMPROVEMENT CHARGE BE PAID CURRENT THROUGH THE DATE OF CONVEYANCE AND SHALL REQUIRE THE CONTINUED PAYMENT OF THE SYSTEM IMPROVEMENT CHARGE IN PERPETUITY**.

(4) If, by oversight or mistake, the Commission is not named a party to the eminent domain proceedings, [or if no separate award for the sum necessary to pay the system improvement charge through the date of conveyance,] the condemning authority shall pay to the Commission the amount required to pay the [system

improvement charge] **SYSTEM IMPROVEMENT CHARGE** through the date of conveyance at the same time the condemning authority pays the amount awarded to the property owner in the proceedings.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.