

SB0959/853523/1

BY: Budget and Taxation Committee

AMENDMENTS TO SENATE BILL 959
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “**and Muse**” and substitute “**Muse, Corderman, Guzzone, Jackson, Jennings, McCray, and Salling**”; strike beginning with “establishing” in line 12 down through “Program;” in line 15 and substitute “establishing a process for making certain claims against the Maryland Prepaid College Trust;”.

On page 2, after line 13, insert:

“BY adding to

Article – Education

Section 18–1917

Annotated Code of Maryland
(2022 Replacement Volume)”;

in line 19, strike “with” and substitute “without”; in line 21, strike “and (11)” and strike in their entirety lines 24 through 28, inclusive, and substitute:

“BY repealing and reenacting, with amendments,

Article - State Government

Section 9–803(a)(11)

Annotated Code of Maryland
(2021 Replacement Volume and 2022 Supplement)”.

AMENDMENT NO. 2

On page 5, in line 7, strike “State” and substitute “**STATE**”.

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On page 7, in line 22, after “a” insert “**DEPUTY TREASURER TO ADMINISTER THE**”; and strike beginning with “executive” in line 22 down through “System” in line 23.

On page 8, strike beginning with “ADMINISTER” in line 28 down through “(3)” in line 32.

On page 9, in lines 1, 3, 6, 7, 10, 15, 17, 26, 28, and 31, strike “(4)”, “(5)”, “(6)”, “(7)”, “(8)”, “(9)”, “(10)”, “(11)”, “(12)”, and “(13)”, respectively, and substitute “**(2)**”, “**(3)**”, “**(4)**”, “**(5)**”, “**(6)**”, “**(7)**”, “**(8)**”, “**(9)**”, “**(10)**”, and “**(11)**”, respectively; in line 31, strike “on the”; in the same line, strike “STATE TREASURER’S”; and in the same line, strike “own behalf”.

On page 10, in line 1, strike “(14)” and substitute “**(12)**”; after line 3, insert:

“(D) THE STATE TREASURER MAY:

(1) DELEGATE, WHOLLY OR PARTLY, THE EXERCISE OF FIDUCIARY DUTIES RELATED TO THE TRUST; AND

(2) CONTRACT FOR SUPPORT SERVICES NECESSARY TO CARRY OUT THE STATE TREASURER’S FIDUCIARY DUTIES RELATED TO THE TRUST.”;

in line 5, strike “develop and”; and in line 17, strike “2016” and substitute “**2025**”.

On page 11, in line 33, strike “and”.

On page 12, in line 2, after “PROGRAM” insert “**; AND**

(4) TO MAKE PAYMENTS TO RESOLVE CLAIMS BROUGHT AGAINST THE TRUST IN ACCORDANCE WITH § 18–1917 OF THIS SUBTITLE.

On page 13, in line 11, strike “or”; and in line 15, after “Trust” insert “;OR”

(3) AN INDIVIDUAL TO WHOM THE TREASURER HAS DELEGATED FIDUCIARY DUTIES IN ACCORDANCE WITH § 18–1905 OF THIS SUBTITLE.

On page 14, in line 17, after “establish” insert “ANY NEW PREPAID CONTRACTS OR EXTEND OR UPGRADE ANY EXISTING”; strike beginning with “to” in line 17 down through “university” in line 22; in line 24, after “INTO” insert “ANY NEW”; and in the same line, after “CONTRACTS” insert “OR EXTEND OR UPGRADE ANY EXISTING PREPAID CONTRACTS”.

On pages 14 and 15, strike beginning with “TO” in line 24 on page 14 down through “UNIVERSITY” in line 2 on page 15.

On page 16, in line 12, strike “The” and substitute “SUBJECT TO SUBSECTION (A) OF THIS SECTION, THE”; in line 19, strike “NOT” and substitute “ONLY”; in line 20, strike “STATE” and substitute “STATE”; in line 21, after “LAW” insert “, FOR THE PURPOSE OF CONTRIBUTING FUNDS TOWARDS AN EXISTING CONTRACTUAL OBLIGATION”; in line 22, strike “(I)”; in the same line, strike “ON OR BEFORE DECEMBER 31, 2024, THE” and substitute “THE”; and in line 24, strike “State” and substitute “STATE”.

On pages 16 and 17, strike in their entirety the lines beginning with line 26 on page 16 through line 3 on page 17, inclusive.

On page 17, in lines 8 and 10, in each instance, strike “State” and substitute “STATE”.

(Over)

On page 20, after line 14, insert:

“18–1917.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2), (3), AND (4) OF THIS SUBSECTION AND NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN ACCOUNT HOLDER OR A QUALIFIED BENEFICIARY MAY FILE A CLAIM ARISING FROM THE ADMINISTRATION OF THE TRUST WITH THE STATE TREASURER, AS FIDUCIARY OF THE TRUST.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A CLAIM MAY BE FILED ONLY BY AN ACCOUNT HOLDER OR A QUALIFIED BENEFICIARY FOR AN ACCOUNT THAT WAS OPEN AND EXISTING ON OR AFTER NOVEMBER 1, 2021.

(3) A QUALIFIED BENEFICIARY MAY ONLY FILE A CLAIM RELATED TO A DISTRIBUTION THAT WAS MADE TO THE QUALIFIED BENEFICIARY OR TO AN ELIGIBLE EDUCATIONAL INSTITUTION ON THE BENEFICIARY’S BEHALF.

(4) ANY CLAIM BROUGHT UNDER THIS SECTION SHALL BE SUBJECT TO THE EXCLUSIONS AND LIMITATIONS SET FORTH IN THIS SUBTITLE.

(B) A CLAIM FILED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION SHALL BE FILED:

(1) FOR A CLAIM RELATING TO THE UPDATED TERMS INCLUDED IN THE DISCLOSURE STATEMENT FOR THE TRUST THAT WENT INTO EFFECT NOVEMBER 1, 2021:

(I) NOT SOONER THAN THE DATE OF THE NOTICE TO ACCOUNT HOLDERS REQUIRED BY SUBSECTION (J)(2)(I) OF THIS SECTION; AND

(II) NOT LATER THAN DECEMBER 31, 2023; OR

(2) FOR ALL OTHER CLAIMS, 1 YEAR AFTER THE DATE THE CLAIM ARISES.

(C) A CLAIM UNDER THIS SECTION SHALL:

(1) CONTAIN A CONCISE STATEMENT OF FACTS THAT SETS FORTH THE NATURE OF THE CLAIM;

(2) STATE THE NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS, IF ANY, OF THE CLAIMANT;

(3) STATE THE PREPAID TRUST ACCOUNT NUMBER TO WHICH THE CLAIM RELATES;

(4) CONTAIN ANY OTHER INFORMATION REQUIRED TO BE SET FORTH IN A CLAIM BY ANY PROCEDURES OR REGULATIONS ADOPTED BY THE STATE TREASURER IN ACCORDANCE WITH SUBSECTION (J) OF THIS SECTION;

(5) STATE THE NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS OF THE LEGAL REPRESENTATIVE OR COUNSEL FOR THE CLAIMANT, IF ANY; AND

(6) BE SIGNED BY THE CLAIMANT, OR THE LEGAL REPRESENTATIVE OR COUNSEL FOR THE CLAIMANT.

(Over)

(D) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE STATE TREASURER SHALL:

(I) INVESTIGATE THE CLAIM;

(II) APPROVE OR DENY THE CLAIM IN WHOLE OR IN PART;

AND

(III) NOTIFY THE CLAIMANT, OR THE LEGAL REPRESENTATIVE OR COUNSEL FOR THE CLAIMANT, IF ANY, IN WRITING OF THE FINAL DETERMINATION.

(2) IN THE EXERCISE OF THE STATE TREASURER'S FIDUCIARY DUTIES, THE STATE TREASURER MAY:

(I) DELEGATE, WHOLLY OR PARTLY, THIS RESPONSIBILITY, PROVIDED THAT ANY DELEGATE SHALL BE A FIDUCIARY WITH RESPECT TO MAKING A FINAL DETERMINATION OF A CLAIM; AND

(II) CONTRACT FOR ANY SUPPORT SERVICES THAT ARE NEEDED TO CARRY OUT THIS RESPONSIBILITY.

(3) FOR CLAIMS RELATING TO THE UPDATED TERMS INCLUDED IN THE DISCLOSURE STATEMENT FOR THE TRUST THAT WENT INTO EFFECT NOVEMBER 1, 2021, TO THE EXTENT PRACTICABLE, THE STATE TREASURER SHALL PRIORITIZE THE PROCESSING OF CLAIMS OF ACCOUNT HOLDERS WHO:

(I) HAVE SOUGHT DISBURSEMENTS FOR QUALIFIED HIGHER EDUCATION EXPENSES BEFORE JUNE 1, 2023; OR

(II) WILL BE SEEKING DISBURSEMENTS FOR QUALIFIED HIGHER EDUCATION EXPENSES FOR THE FALL OF CALENDAR YEAR 2023.

(E) EACH FINAL DETERMINATION MADE BY THE STATE TREASURER IN ACCORDANCE WITH THIS SECTION, SHALL BE MADE:

(1) INDEPENDENTLY AND IN THE STATE TREASURER'S ROLE AS FIDUCIARY TO THE TRUST; AND

(2) SOLELY CONSIDERING THE INTERESTS OF ALL OF THE ACCOUNT HOLDERS AND QUALIFIED BENEFICIARIES UNDER THE TRUST.

(F) ACCEPTANCE OF A SETTLEMENT BY A CLAIMANT:

(1) WITH RESPECT TO A CLAIM BROUGHT IN ACCORDANCE WITH SUBSECTION (B)(1) OF THIS SECTION, SHALL BE CONDITIONED ON AN AGREEMENT OF THE ACCOUNT HOLDER TO TRANSFER ALL FUNDS IN THE ACCOUNT TO ANY OTHER QUALIFIED STATE TUITION PROGRAM; AND

(2) IS, AS TO THAT CLAIMANT AND ANY QUALIFIED BENEFICIARY OF THE ACCOUNT TO WHICH THE CLAIM RELATES:

(I) FINAL; AND

(II) A COMPLETE RELEASE OF EACH CLAIM ARISING FROM THE ADMINISTRATION OF THE TRUST AGAINST:

(Over)

1. THE STATE;
2. EACH OF ITS UNITS;
3. ALL STATE PERSONNEL; AND
4. THE TRUST.

(G) THE STATE TREASURER, AS FIDUCIARY OF THE TRUST:

(1) MAKES THE FINAL DETERMINATION WITH RESPECT TO CLAIMS SUBMITTED IN ACCORDANCE WITH THIS SECTION; AND

(2) IS EXEMPT FROM THE PROVISIONS OF TITLE 10, SUBTITLES 2 AND 3 OF THE STATE GOVERNMENT ARTICLE.

(H) ANY CLAIM BY AN ACCOUNT HOLDER OR A QUALIFIED BENEFICIARY ARISING FROM THE ADMINISTRATION OF THE TRUST SHALL BE MADE SOLELY AGAINST THE ASSETS OF THE TRUST.

(I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THIS SECTION PROVIDES THE EXCLUSIVE REMEDY FOR A CLAIM AGAINST THE ASSETS OF THE TRUST.

(J) (1) THE STATE TREASURER SHALL:

(I) FOR CLAIMS BROUGHT IN ACCORDANCE WITH SUBSECTION (B)(1) OF THIS SECTION, ESTABLISH PROCEDURES TO IMPLEMENT THE CLAIM PROCESS ESTABLISHED IN THIS SECTION FOR THOSE CLAIMS; AND

(II) FOR ALL OTHER CLAIMS, ADOPT REGULATIONS FOR THE CLAIM PROCESS ESTABLISHED IN THIS SECTION.

(2) THE STATE TREASURER SHALL PROVIDE NOTICE TO ACCOUNT HOLDERS WITHIN 10 BUSINESS DAYS OF:

(I) THE ESTABLISHMENT OF THE PROCEDURES DESCRIBED IN THIS SUBSECTION; AND

(II) THE ADOPTION OF REGULATIONS IN ACCORDANCE WITH THIS SUBSECTION.”

On page 21, in lines 11, 21, and 22, in each instance, strike “State” and substitute “**STATE**”.

On page 23, in line 2, strike “State” and substitute “**STATE**”.

On page 25, strike beginning with “the” in line 5 down through “(ii)” in line 7; in line 7, strike “fiscal year 2019 and”; in the same line, strike “thereafter”; and strike beginning with “develop” in line 24 down through “2018” in line 25 and substitute “**UTILIZE**”.

On page 28, in lines 15 and 18, in each instance, strike the bracket; in line 16, strike “Board’s” and substitute “**STATE TREASURER’S**”; and in line 17, strike “Board” and substitute “**STATE TREASURER**”.

(Over)

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On page 29, in line 21, strike “State” and substitute “STATE”.

On page 33, in line 28, strike “develop, establish.”.

On page 34, in lines 2 and 5, in each instance, strike “develop,”; in line 8, strike “(1)”; strike beginning with the colon in line 8 down through “Enrollment” in line 9 and substitute “ENROLLMENT”; and strike beginning with the semicolon in line 9 down through “adopt” in line 14 and substitute “AND”.

On page 38, in line 21, strike the brackets; strike beginning with “(11)” in line 22 down through “AND” in line 23; in line 24, strike the brackets; and in the same line, strike “(12)”.

On pages 39 and 40, strike in their entirety the lines beginning with line 18 on page 39 through line 21 on page 40, inclusive.

On page 40, in line 22, strike “3.” and substitute “2.”; and in line 25, strike “4.” and substitute “3.”.

On page 41, after line 5, insert:

“(c) Before June 1, 2023:

(1) the Maryland 529 Board and its staff shall cooperate fully and in a timely manner with all requests from the State Treasurer related to the transition of the Maryland 529 Program to the Office of the State Treasurer, including any requests to:

(i) inspect records and documents related to the Program; and

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(ii) receive information or services from outside service providers engaged by the Board; and

(2) the State Treasurer may take any action deemed necessary or appropriate to prepare for the transfer of the administration of the Maryland 529 Program to the Office of the State Treasurer on June 1, 2023.”;

in line 6, strike “(c)” and substitute “(d)”;

and in lines 10, 13, 19, 27, 31, and 36, strike “5.”, “6.”, “7.”, “8.”, “9.”, and “10.”, respectively, and substitute “4.”, “5.”, “6.”, “7.”, “8.” and “9.”, respectively.

On page 42, in lines 8, 15, and 22, strike “11.”, “12.”, and “13.”, respectively, and substitute “10.”, “11.”, and “12.”, respectively; strike beginning with the colon in line 15 down through “Act” in line 19 and substitute “a settlement as a result of the final determination of any claim submitted in accordance with § 18–1917 of the Education Article, as enacted by Section 1 of this Act:”

(1)”;

in line 21, after “tax” insert “; and

(2) is exempt from State and local taxes”;

after line 27, insert:

“SECTION 13. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect June 1, 2023.”;

and in line 31, after “Assembly” insert “, and except as provided in Section 13 of this Act”.