AN ACT requiring certain employers to recall certain employees who have been laid-off after the imposition of the COVID-19 state of emergency; specifying the procedures by which the recall would operate; establishing certain procedures for filing, investigating, and adjudicating a complaint; prohibiting retaliation against employees for filing a certain complaint or participating in certain proceedings; declaring that this Act is an Emergency Bill necessary to meet a public emergency affecting life, health or property; providing for a certain termination date; and generally relating to a right of recall for Covid-19 laid-off employees.
WHEREAS, Hundreds of Howard County residents remain laid off from jobs in the hospitality industry due to the effects of the COVID 19 pandemic; and

WHEREAS, The hospitality industry is not expected to make a full recovery until 2023; and

WHEREAS, Rehiring for the hospitality industry is expected to begin picking up in early 2022, allowing some openings for rehiring in the industry; and

WHEREAS, Ensuring workers return to jobs they held prior to the pandemic will provide economic security for hundreds of Black and Brown Howard County workers, prevent implicit discrimination of workers due to their age, race, and health status, and ensure that the Howard County hotel industry is staffed by experienced personnel best able to protect the public health; and

WHEREAS, Making this bill an emergency measure ensures that as many workers as possible will be benefited as the hospitality industry re-staffs.

Section 1. Be it enacted by the County Council of Howard County, Maryland, that the Howard County Code is hereby amended as follows:

By adding:

Title 12. Health and Social Services.

HOWARD COUNTY CODE
Title 12. Health and Social Services

Sec. 12.217A. Sec. 12.2300. COVID-19 Laid-Off Employees; Right of Recall.

(A) Definitions. In this section, the following terms have the meanings indicated:

(1) Commercial Property Employer means an owner, operator, or manager, or lessee, including a contractor, subcontractor, or sublessee, of a non-residential property in the County that employs 25 or more janitorial, maintenance, or security service employees.
(2) **Confidential Employee** means an employee who in the regular course of the employee's duties:

(i) assists and acts in a confidential capacity to persons who formulate, determine, and effectuate management policies with regard to labor relations; or

(ii) has authorized access to information relating to the effectuation or review of the employer's collective bargaining policies.

(3) **Customary Seasonal Work** means work performed by an employee during approximately the same season of a calendar year, such as summer or winter.

(4) (i) **Employer** means a person that is any of the following, as defined in this section:

1. A commercial property employer;

2. An event center employer; or

3. A hotel employer.

(ii) **Employer** does not include a hospital, as defined in the Health-General Article, § 19-301 of the Maryland Annotated Code.

(5) (i) **Event Center Employer** means an owner, operator, or manager of a publicly or privately-owned structure within the county that:

1. is used for public performances, sporting events, business meetings, or similar events; and

2. either:

   A. is 50,000 square feet or more in total area; or

   B. has a seating capacity of 1,000 seats or more.

(iii) An **Event Center Employer** includes a concert hall.

(ii) An **Event Center Employer** also includes any contracted, leased, or sublet premises connected to or operated in conjunction with the event center's
PURPOSE, SUCH FOOD PREPARATION FACILITIES, CONCESSIONS, RETAIL STORES, RESTAURANTS,
BARS, AND STRUCTURED PARKING FACILITIES.

(6) Hotel has the meaning stated in § 20.402(c) of this Code.

(7) (i) Hotel employer means the owner, operator, or manager of a hotel.

(ii) Hotel employer includes the owner, operator, or manager, or lessee of
any food service facility, as defined in section 12-107(a)(3) of subtitle 1 of this title,
that is physically located in the hotel employer’s premises.

(8) Length of service means the aggregate total period of time during which a
laid-off employee had been in active service to an employer, including periods of time
when the laid-off employee was on leave or on vacation.

(9) Person means:

(i) an individual;

(ii) a partnership, firm, association, corporation, limited liability
company, or other entity of any kind; or

(iii) a receiver, trustee, guardian, personal representative, fiduciary, or
representative of any kind.

(B) Application of section. This section applies to a laid-off employee:

(1) who had a length of service with an employer of 90 days or more in the 12
months preceding their most recent separation from active service or failure to be
scheduled for customary seasonal work from that employer;

(2) who performed, prior to their most recent separation from active
employment or failure to be scheduled for customary seasonal work, an average of
at least two hours of work within Howard County for that employer during a
workweek; and

(3) whose most recent separation from active employment with that employer
or failure to be scheduled for customary seasonal work occurred on or after
March 5, 2020, as a result of a lack of business, a reduction in workforce, or any other economic and non-disciplinary reason.

(c) Exceptions to application of section. This section does not apply to an individual who, immediately before his or her separation, was a managerial, supervisory, or confidential employee.

(d) Laid-off employees of commercial property owners. With respect to a commercial property employer, an individual who is a laid-off employee is limited to only the separated janitorial, maintenance, or security service employees of the commercial property employer.

(e) Right of recall. An employer shall offer to a laid-off employee any position which is available or becomes available for which the laid-off employee is qualified as described in subsection (f) of this section.

(f) Implementation. (1) A laid-off employee is qualified and must be offered a position with the employer under this section if the laid-off employee:

(I) held the same or similar position at the same site of employment at the time of the laid-off employee's most recent separation from employment or failure to be scheduled for customary seasonal work; or

(II) could become qualified for the position with the same training that would be provided to a new worker hired into the position.

(2) If more than one laid-off employee is entitled to preference for a position, the employer shall first offer the position, in order of seniority by length of service, to those laid-off employees described in paragraph (1)(i) of this subsection; and

(II) then offer the position, in order of seniority by length of service, to those laid-off employees described in paragraph (1)(ii) of this subsection.

(3) An employer may make simultaneous, conditional offers of employment to multiple laid-off employees, with any final offers of employment conditioned on application of the priority set forth in paragraph (2) of this subsection.

(4) A laid-off employee who is offered a position under this section shall be given at least five business days to accept or decline the offer.
(5) An employer shall contact the laid-off employee at the last known phone number or email address with an offer.

(6) The employer is not required to offer a laid-off employee subsequent positions for which they are qualified if the employee has been given an offer of employment pursuant to subsection (e) and did not accept the employer's offer.

(G) Retaliation prohibited. An employer may not discharge or reduce the compensation of any employee for:

1. Making a complaint to the Human Rights Administrator alleging a violation of this section; or
2. Participating in any of the Human Rights Administrator's proceedings concerning an alleged violation of this section.

Sec. 12.2301. Enforcement.

This subtitle shall be enforced by the appropriate county or state agency as based on the specific expertise needed to investigate complaints and administer this subtitle.

Section 2. Be it further enacted by the County Council of Howard County, Maryland, that an employer may not terminate an employee hired or a contract for services entered prior to the effective date of this Act in an effort to meet the requirements of this Act.

Section 2. 3. Be it further enacted by the County Council of Howard County, Maryland, that this Act is adopted as an emergency measure to address an immediate emergency affecting public health, safety, or welfare and having been passed by two-thirds of its members, this Act shall be effective immediately after its enactment. It shall remain effective for 270 days after the local State of Emergency ends in Howard County until the end of December 31, 2022, and with no further action required by the County Council, shall be abrogated and of no further force and effect.
BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on February 7, 2022.

_________________________
Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____________, 2022.

_________________________
Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____________, 2022.

_________________________
Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____________, 2022.

_________________________
Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____________, 2022.

_________________________
Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____________, 2022.

_________________________
Michelle Harrod, Administrator to the County Council